SEVENTH ANNUAL
FOREIGN DIRECT INVESTMENT INTERNATIONAL MOOT
COMPETITION
MALIBU, CALIFORNIA
24 OCTOBER TO 26 OCTOBER 2014

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

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CALRISSIAN & CO, INC.

Claimant

v.

THE FEDERAL REPUBLIC OF DAGOBAH

Respondent

Case SCC No 00/2014

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MEMORIAL FOR CLAIMANT

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NCCP, France New Code of Civil Procedure, France (May 14, 1991);

ZPO German Code of Civil Procedure (ZPO) (December 22, 1997).
STATEMENT OF FACTS

1. Claimant, Calrissian & Co., Inc., is a Corellian hedge fund that holds a number of sovereign bonds subjected to the Sovereign Restructuring Act (hereinafter “SRA”). The Corellian Republic (hereinafter “Corellia”), which has a sophisticated financial and banking industry, is respondent’s developed neighbor.

2. Respondent, the Federal Republic of Dagobah (hereinafter “Dagobah”), has always had close diplomatic and economic relationships with Corellia. The state pursues an inward-oriented development policy, characterized by moderately free markets.

3. In 1992, the two countries entered into the Agreement for the Promotion and Protection of Investments (hereinafter “the BIT”). This Agreement was part of a plan undertaken by Dagobah’s government to stimulate economic growth.

4. However, instead of economic growth in early 2001 Dagobah was faced with an unsustainable debt burden and descended into a two-and-a-half year long economic crisis.

5. On 7 May 2001 the government of Dagobah restructured its sovereign debt and launched an exchange offer of the bonds for new ones to be issued by Dagobah with the reduction of bond’s face value by 43%. Such restructuring caused major losses to bondholders, among which were several investors from Corellia.

6. To ensure the protection of Corellian bondholders Corellia tried to clarify the language of the BIT, which did not include an express reference to sovereign bonds under the definition of investments to which the treaty would apply.

7. On diplomatic negotiations, which proceeded over the second half of 2001, the parties did not reach consensus and, so, Corellia commenced arbitral proceedings against Dagobah, administered by the Permanent Court of Arbitration (hereinafter “PCA”), requesting a decision on the interpretation issue.

8. On 29 April 2003, the PCA Arbitral Tribunal issued a final and binding award 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.

9. By then, Corellian bondholders had already accepted a restructuring offer resulting in losses of less than 20% of the net present value of their bonds and no litigation proceed-
ings were pursued by Corellian nationals against Dagobah in respect to its sovereign debt restructuring.

10. At the beginning of 2010, Dagobah’s ability to meet its debt obligations was put in question again. Even though Dagobah had for the most part followed IMF’s recommendations after the crisis of 2001, in IMF’s new recommendations dated 14 September 2012 its debt was estimated at more than U$ 400 billion and viewed as unsustainable.

11. With regard of new IMF’s recommendations, on 28 March 2012, Respondent enacted the SRA, 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.

12. On 9 July 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.

13. 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.

14. On 30 August 2013, Calrissian commenced arbitral proceedings before the Arbitration Institute of the Stockholm Chamber of Commerce (hereinafter “SCC”) with the reference to the decision on interpretation rendered by the PCA Arbitral Tribunal, and appointed Ms. Crusher to act as an arbitrator. Clarissian claims Dagobah’s actions constituted a violation of the fair and equitable treatment standard of protection contained in Article 2(2) of the BIT and requests full compensation for the losses incurred.

15. In the Answer to notification of Clarissian’s Request, dated 4 October 2013, Dagobah argues that Calrissian is not entitled to pursue arbitration since its sovereign bonds are not investments and are outside the scope of BIT’s protections, and that an SCC Arbitral Tribunal should not be bound by the PCA Arbitral Tribunal’s interpretation. Respondent argues that no such violation took place and appoints Prof. Riker as an arbitrator.
ARGUMENTS

PART ONE: JURISDICTION AND ADMISSIBILITY

I. THE TRIBUNAL HAS JURISDICTION OVER THE DISPUTE CONCERNING THE SOVEREIGN BONDS OWNED BY CLAIMANT UNDER THE BIT

1. Claimant submits that the Tribunal has jurisdiction over the claims presented, since (A) *ratione materiae*, and (B) *ratione personae* requirements under the BIT provisions are met.

2. The *Abaclat* tribunal determined that the claims would establish the tribunal’s jurisdiction under the BIT as long as the claims actually arose out of an ‘investment’ within the meaning of article of the BIT.¹

A. The Tribunal has *ratione materiae* jurisdiction

3. The BIT defines investment in broad and non-exhaustive terms by using the phrases “the characteristics of an investment, including such” and “may include”.² This definition of investment covers investments in any other form that may not have been mentioned in the definition clause.

4. Claimant submits that broad interpretation of the definition of ‘investments’ contained in Article 1 of the BIT is possible. The practice of arbitral tribunals shows that the broad approach could not been applied only when the BIT provides a closed list of investment forms, *e.g.* in *Joy Mining Machinery Ltd. v Egypt* the contract contained the list of some particular obligations, which allowed the tribunal to state that no investment had been made, therefore jurisdiction was denied. In cases with a non-exhaustive list of investment forms the tribunals concluded that the term ‘investment’ should be given a ‘broad reach’.³

5. The requirements for an ‘investment’ under the BIT are much alike those adopted in the case law, namely, in *Salini v Morocco*, where the tribunal outlined four criteria which an

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¹ *Abaclat*, §333.
² Corellia-Dagobah BIT, Article 1.
³ *Fedax v. Venezuela; Ceskoslovenska Obchodni Banka; M.C.I. and New Turbine v. Ecuador; Patrick Mitchell.*
‘investment’ ought to match - substantial commitment, certain duration, assumption of risk and significance for the host state’s development.\(^4\)

6. Holding sovereign bonds can be viewed as a financial commitment.\(^5\) The criterion of commitment is satisfied when claimant’s resources are brought toward Respondent.\(^6\) In the case at hand sovereign bonds are only given to someone who invests money in a government, \(i.e.\) brings its resources.

7. Since Dagobah has always had close diplomatic and economic relationships with developed Corellia,\(^7\) their sovereign bond relations may be said to display a certain regularity of profit and return and the contribution made by Claimant could be considered as substantial.

8. The duration constitutes a factor of a paramount importance, “which distinguishes investments from ordinary commercial transaction.”\(^8\) Since sovereign bonds constitute a matter of extended duration just as the investment projects tend to have, the requirement of duration has been met.

9. Scholars and case law agree that the supposed investment must be at ‘risk’, more particularly economic risk, in that the outcome of the investment must be uncertain.\(^9\) Otherwise, no protected ‘investment’ has taken place.\(^10\) In the cases where crisis is involved, there always seem to be risk and uncertainty in outcome, so that there was a real possibility for the investors (particularly for Claimant) to lose their money. Consequently, the presence of risk in the current case is undoubtful.

10. Moreover, the mere existence of the dispute may serve as an indication of risk.\(^11\) The tribunals also pointed out that the risk is inherent in any long-term commercial contract.\(^12\)

\(^4\) Salini, §56.


\(^6\) RSM v. Grenada, §243.

\(^7\) Uncontested facts, §2.

\(^8\) Bayindir, Award, §73.


\(^10\) Patrick Mitchell, §27.

11. It is also clear, that Claimant expects to generate profit as the purpose of investing money in the government. The bond issuer is promising to pay back the money with interest to bondholder, otherwise the possession of bonds seems to be meaningless.\textsuperscript{13}

12. Just as the abovementioned requirements are satisfied, the criterion of significance is fulfilled since the sovereign bonds were supposed to balance the economic situation in the host state and assist in managing its debt burden.

13. Therefore, \textit{ratione materiae} jurisdiction requirement is met since the underlying transaction falls under the criteria of investment as elaborated in the BIT.

\textbf{B. The Tribunal has \textit{ratione personae} jurisdiction}

14. It is the general practice in investment agreements to specifically define the objective criteria which make a legal person a national, or investor, of a Party, for purposes of the agreement.\textsuperscript{14} The place of incorporation or the ‘nationality’ of an entity is the sole requirement for it to qualify as an ‘investor’ under Article 1 of the BIT.\textsuperscript{15}

15. According to the \textit{Abaclat} tribunal, the relevant inquiry for determining the place where an investment is made is whether the invested funds were ultimately made available to the host state and whether they supported the state’s economic development.\textsuperscript{16}

16. The bonds were used for sovereign debt restructuring of Dagobah and, so, definitely supported the state’s economic development. Being as well ultimately available to Dagobah, the territorial link might be said to be determined.

17. As a result, with the territorial link being present the case complies with \textit{ratione personae} jurisdiction requirement.


\textsuperscript{13} \textit{CME v. Czech Republic}, Final Award, §34; \textit{Metalclad v. Mexico}, §122.


\textsuperscript{15} Corellia-Dagobah BIT, Article 1.

\textsuperscript{16} \textit{Abaclat}, §378.
II. PCA AWARD'S DEFINITION OF THE INVESTMENT IS APPLICABLE IN THE PRESENT DISPUTE

A. Principle res judicata should not be violated in the present case

18. Claimant submits that PCA award's definition of the investment is applicable in the present dispute, since otherwise the res judicata principle would be violated.

19. *Res judicata is a well-established principle.*\(^{17}\) It is provided for, in particular, by Article 32(2) of the UNCITRAL Arbitration Rules 1976, which states that “amongst the parties, the arbitration award has the effect of a final and binding judgment handed down by a court.”\(^{18}\) It follows that if the principle is applied here the PCA award's definition of the investment has to be applicable in the present dispute as an award having the effect of a final and binding judgment.

20. In order for the decision to be considered *res judicata* it has to be final and without serious flaws. Furthermore, there has to be triple identity of parties, requests, and causes of action in both sets of proceedings.\(^{19}\)

21. Firstly, Claimant submits that PCA’s decision in question is a final decision. As it was held in *Chevron v. Ecuador*, a decision is regarded as final when there is no further possibility of ordinary judicial appeal against it.\(^{20}\) As noted by Professor Greenberg et al., since the tribunals’ decisions necessary lead to some form of obligatory behaviour on behalf of the parties, contesting the first decision would be unjust to the parties who complied with it.\(^{21}\) Here, the award in question has been rendered by the PCA Tribunal.\(^{22}\) Finality of the PCA Awards is confirmed in the art. 54 1899 Hague Convention\(^ {23}\) which


\(^{18}\) UNCITRAL Arbitration Rules 1976, Article 32(2).

\(^{19}\) Hanno Wehland, *The Coordination of Multiple Proceedings in Investment Treaty Arbitration*, p.6.104.

\(^{20}\) *Chevron v. Ecuador*, Interim Award, §117; *Chevron v. Ecuador*, Partial Award, §158.


\(^{22}\) Uncontested facts, §11.

\(^{23}\) Convention for the Pacific Settlement of international Disputes, The Hague, July 29 1899, art. 54.
states that “the award puts an end to the dispute definitively without appeal.” It is, therefore, clear that the award in question is final.

22. Secondly, Claimant submits that there are no serious flaws in the award. The flaws which are typically found in the decisions are: corruption, fraud or violation of the fundamental procedural principles. Normally those are the matters of public international law and there are no such flaws in the award in question.

23. Thirdly, as the tribunal in Occidental Exploration v Ecuador noted:

“To the extent that a dispute might involve the same parties, object and cause of action it might be considered as the same dispute.”

Claimant submits that there is a triple identity of parties, cause of action, and subject-matter in the two subsequent sets of proceedings in question.

24. In Chevron v. Ecuador the tribunal held that identity or ‘sameness’ “must refer to material identity”. Here, the fact that in both disputes proper interpretation of that term has been requested provides for the identity of subject matter. In the Corellia dispute Article 7 of the BIT served as a cause of action whereas in the present dispute Claimant relies on Article 8. That is however a procedural difference and not a material one, since the effect of both provisions is essentially the same as evidenced by the evident ‘sameness’ of subject matter.

25. Respondent in both cases is the Republic of Dagobah. Furthermore, Claimant submits that both Corellia and Calrissian may be viewed as agents acting in the interests of the Corellian bondholders. Of course, a state and a hedge-fund are not exactly the same thing, however, Claimant submits that there is no material difference between them that may affect the tribunal’s interpretation of the term ‘investment’.

28 Uncontested facts, §8.
29 Uncontested facts, §22.
26. Overall, Claimant submits that since all of the requirements for application of res judicata principle are met, the tribunal has to apply it in respect of the interpretation of the term ‘investment’ given by the PCA tribunal.

B. **Dagoba has acquiesced to PCA’s decision**

27. Furthermore, Claimant submits that Dagobah has acquiesced to PCA’s decision, which precludes it from disputing it. Acquiescence is silence, inaction or failure to protest that may in appropriate circumstances give rise to a presumption of acceptance or recognition of a legal right or position claimed by another state. Acquiescence may occur where a party fails to assert the claim provided that failure must have extended for long period of time and that failure to assert the claim must have required action.

28. In *Temple Case*, Thailand's claim to sovereignty over a certain piece of territory failed, because it had accepted and used, without protest, certain boundary maps made by Cambodia which contradicted its claim, thus, giving its tacit acceptance. In the present dispute, Dagobah's failure to adequately challenge PCA award is a clear example of acquiescence. In Procedural Order No 2 it is noted that Dagobah's representatives publicly voiced their disagreement with the PCA majority's decision, however, no further legal action was pursued. Thus, although Dagobah could have undertaken further action, it chosen not to assert its interests. This acquiescence lasted for more than 10 years which leads to conclusion that Dagobah has been satisfied with the award.

29. Overall, Claimant submits that Dagobah’s conduct is sufficient to give a rise to a presumption of acquiescence which precludes it from disputing PCA’s decision.

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III. THE FORUM SELECTION CLAUSE CONTAINED IN THE SOVEREIGN BONDS SHOULD NOT BE TAKEN INTO CONSIDERATION BY THE TRIBUNAL

30. The new bonds contain the forum selection clause (hereinafter “the FSC”) providing that "any dispute arising from or relating to this contract will be exclusively resolved before the Courts of Yavin".  

31. Claimant argues that the Tribunal should not consider this dispute resolution clause as a ground for declining jurisdiction, since (A) Claimant submitted only treaty-based claims governed by the BIT; (B) even if claims are contract-based, the Tribunal still has jurisdiction over them.

A. Claimant submitted only treaty-based claims governed by the BIT

32. Calrissian’s allegations are concerned with Respondent's violations of the BIT obligations and general international law. Therefore, Claimant is going to demonstrate that (1) treaty claims should be distinguished from contract-based; and, (2) a simple breach of contract can lead to the treaty claim.

1. Treaty-based claims should be distinguished from contract-based

33. In accordance with international law there is a difference between treaty and contract claims. In Vivendi the committee stated that claimant is allowed to submit treaty claims for adjudication pursuant to the dispute resolution mechanism consolidated by the treaty. This position was confirmed by many arbitral tribunals. Pursuant to these cases, treaty and contract claims have a different legal basis and, consequently, there are three key criteria essential for distinguishing such claims: (a) the source of rights, and (b) the applicable law.

a. The source of rights

34 Procedural order No.2, §16; Uncontested facts, §20.
36 SGC v. Pakistan, §155; Salini, §624; Sempra, §§121-22; Eureko v. Poland, §101; Lanco Int'l v. Argentina, §463; AES Corp. v. Argentina, §90; PSEG Global v. Turkey, §158.
34. Firstly, it is necessary to consider the basis of the claim, in other words, the source of the right. A cause of action for a treaty claim concerns a right determined by an investment treaty.

35. In the present case, Respondent violated its BIT obligation to provide foreign investors with fair and equitable treatment via implementation of the Sovereign Restructuring Act (hereinafter “the SRA” or “the Act”) and other measures included into the sovereign debt restructuring process. Respondent failed to protect Claimant’s legitimate expectations with respect to the bonds’ legislation and treated it arbitrarily and discriminatorily when the collective action mechanism was implemented into the Act. Considering the difference between jurisdictional and merits stages, provided violations will be analyzed in more detail in Part Two of the Memorial.

36. Therefore, the submitted claims are based on the treaty obligations. Accordingly, the Tribunal should exercise jurisdiction over Calrissian’s allegations.

b. The applicable law

37. Applicable law with respect of foreign investments includes general international law, the BIT and domestic law of two contracting states. As for contracts, applicable law usually lies in the framework of domestic law.

38. As it has already been demonstrated, the sovereign bonds owned by Calrissian are considered as foreign investment. Thus, the law applicable to its governance is more likely to be determined as international, but not domestic.

39. Consequently, Claimant’s allegations are clearly of treaty nature and should be governed by international law with no reference to the forum selection clause.

2. A simple breach of contract can lead to a treaty claim

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39 Corellia-Dagobah BIT, Article 2(2).

40 Uncontested facts, §17.

40. Even simple breach of contract may give rise not only to contractual claims, but also to independent treaty claims.\textsuperscript{42} According to principles of international law, a contract between a State and a private person cannot override a treaty between two sovereign States, i.e. the BIT. According to arbitral practice, violation of a contract is similar to violation of a treaty and, thus, if a foreign investor chooses the BIT dispute resolution mechanism, a State is bound to comply with this mechanism notwithstanding a forum selection clause.\textsuperscript{43}

41. Thus, if the Tribunal accept antecedence of the bonds’ dispute resolution provision before the BIT’s one, it compounds treaty and contract claims in a single mechanism for action. To be more precise, such a privilege of a contractual dispute resolution in situations of treaty violations leads to the substitution of a BIT dispute resolution mechanism by a contractual one when the BIT provisions are breached.\textsuperscript{44}

42. Moreover, in accordance with \textit{CMS v. Argentina}:

\begin{quote}
“[p]urely commercial aspects of a contract might not be protected by the treaty in some situations, but the protection is likely to be available when there is significant interference by governments or public agencies with the rights of the investor.”\textsuperscript{45}
\end{quote}

43. In the case at hand, Dagobah implemented new regulations with respect to the bonds which radically changed Calrissian’s rights. To be more precise, the collective action mechanism seriously affect Claimant’s right for protection under the contract.

44. Consequently, the Tribunal should elevate Calrissian’s claims on the treaty level even if only contract violation took place.

\textbf{B. Even if claims are contract-based, the Tribunal still has jurisdiction over them}

45. Even if the Tribunal considers Calrissian’s claims as contract-based but not treaty-based, it has jurisdiction over them, since (1) the essence of the dispute resolution provision in-

\textsuperscript{42} \textit{SGC v. Pakistan}, §154; \textit{Bayindir}, Decision on Jurisdiction, §272; \textit{Impregilo v. Pakistan}, §289.

\textsuperscript{43} \textit{Lanco v. Argentina}, §460; \textit{Sempra}, Decision on Jurisdiction, §121-22; \textit{PSEG Global v. Turkey}, §158.

\textsuperscript{44} Mihi Naniwadekar, \textit{The Scope and Effect of Umbrella Clauses: The Need for a theory of deference?}, p.13.

cluded in the BIT should be considered, and (2) an umbrella clause is not the only one factor lifting contract claim on the treaty level.

1. **The essence of the dispute resolution provision included in the BIT should be considered**

46. In accordance with Article 8 of the BIT a foreign investor can submit "any legal dispute... in connection with an investment" to the Centre for the Settlement of Investment Disputes Between States and Nationals of Other States or to the Stockholm Chamber of Commerce.

47. This BIT provision is formulated rather broadly. Its interpretation leads to the following conclusion: investment disputes arising from the BIT may include contractual claims as well as treaty.\(^{46}\)

48. The *Vivendi* Annulment committee interpreted similar broad jurisdiction clause in further words:

   
   "[r]ead literally, the requirements for arbitral jurisdiction in Article 8 do not necessitate that claimant allege a breach of the BIT itself: it is sufficient that the dispute relate to an investment made under the BIT."\(^{47}\)

49. Thus, in order for the Tribunal to have jurisdiction over the dispute, connection between the submitted contractual claims and investment should be demonstrated. In the present case obviously changes in the contract governing the bonds are connected with investment since the bonds should be considered as an investment.

50. Even if Claimant raises issue of the FSC existence in the contract, it is generally accepted that every foreign investor has a right to submit its claims on the basis of investment treaty to the international arbitral tribunal notwithstanding the forum selection clause in a contract between this investor and a host state.\(^{48}\)

51. Respondent may argue that, as in *SGS v. Philippines*, a contract dispute resolution provision is more specific than the general BIT provision.\(^{49}\) However, taking into considera-

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\(^{46}\) E. Gaillard, *Treaty-based Jurisdiction: Broad Dispute Resolution Clauses*.

\(^{47}\) *Vivendi Universal v. Argentina*, §55.


\(^{49}\) *SGS v. Philippines*, §155.
tion objectives and purposes of the BIT, its dispute resolution provision should be considered only as invitation to accept the jurisdiction of the ICSID or SCC tribunal.\textsuperscript{50} Therefore, a specific acceptance of the international investment tribunal’s jurisdiction is required, which makes the BIT provision more general in comparison with the forum selection clause in a contract.

52. In the case at hand, Claimant took advantage of its right as of a foreign investor to submit its claims to the international investment tribunal, i.e. to SCC.\textsuperscript{51} Consequently, the Tribunal should give effect to the specific choice of Claimant, but not to the general provision in the bonds.

2. \textbf{An umbrella clause is not the only one factor lifting contract claim on the treaty level}

53. In the absence of an umbrella clause a violation of contractual obligation leads to a violation of the BIT, if a foreign investor was not accorded fair and equitable treatment.\textsuperscript{52}

54. However, on the jurisdictional stage the Tribunal should not delve into the merits of the case. Therefore, it is enough for Claimant to demonstrate that the facts presented ‘fairly raise questions of breach of one or more provisions of the BIT’.”\textsuperscript{53}

55. In the case at hand, Respondent violated its fair and equitable treatment obligation by the implementation of the SRA act and other measures concerning the sovereign debt restructuring process. These violations will be discussed in the Merits Pert of this Memorial.

56. Taking everything into consideration, the FSC included in the bonds should not be considered by the Tribunal as a ground for declining if the jurisdiction over the case.

\textsuperscript{50} Corellia-Dagobah BIT, Article 8(2).
\textsuperscript{51} Uncontested facts, §22.
\textsuperscript{52} Mondev International v. US, §134, §162; Noble Ventures v. Romania, §162; Impregilo v. Pakistan, §260.
\textsuperscript{53} SGS v. Philippines, §157.
PART TWO: MERITS

IV. RESPONDENT VIOLATED FAIR AND EQUITABLE TREATMENT OBLIGATION

57. Claimant contends that Respondent violated fair and equitable treatment obligation (hereinafter "FET") via adoption of measures concerning the bonds as a part of its sovereign debt restructuring process and the retroactive effects of the SRA.

58. Pursuant to Article 2(2) of the Corellia-Dagobah BIT:

“Investments of each Party or of nationals of each Party shall at all times be accorded fair and equitable treatment.”

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59. It is generally recognized that the key aim of FET is to protect foreign investment and "to contribute to the economic goals of the host state." The FET standard is necessary to guarantee that a foreign investor will not be treated unjustly, arbitrarily, grossly unfair or discriminatory.

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60. The most important principals of the FET standard are transparency, legitimate or reasonable expectations and stability, absence of arbitrary treatment and freedom coercion of foreign investors, absence of discriminatory measures.

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61. Claimant asserts violation of several elements of the FET standard: (A) transparency, legitimate expectations and stability, (B) absence of arbitrary and discriminatory measures.

A. Respondent’s actions were not transparent and legitimately expected

54 Corellia-Dagobah BIT, Article 2(2).


56 Rudolf Dolzer, Fair and Equitable Treatment: Today's Contours, page 12.


58 Mexico v. Metaelclad, §99; Maffeziini v. Spain, §83.


60 Lauder v. Czech Republic, §221; ElettronicaSicula S.P.A., §128; Mondev International v. US, §127; Loewen v. US, §133, §135.

61 Lauder v. Czech Republic; Occidental Exploration v. Ecuador, §177; Siemeris v. Argentina, §321.
62. Claimant asserts that there was no opportunity to foresee enactment of the SRA and other measures concerning the sovereign debt restructuring process in Dagobah. Thus, two elements of the FET standard are violated: transparency and legitimate expectations.

63. As Professor Wälde emphasizes transparency and legitimate expectations are considered together because both principles depend on the clarity of the government’s expectations from the foreign investor and the absence of reticence about ‘ambiguity and contradiction.’

64. Legitimate expectations are expectations arising from foreign investor’s reliance on specific host state conduct, e.g. written representations or commitments made by the host State with respect to the investment. It is generally recognized that violation of legitimate expectations is declared if a host state takes measures that are adopted unilaterally.

65. Respondent has signed the BIT that is considered as commitment of the state with respect to a foreign investor. Thus, Respondent created legitimate expectation that this agreement would be complied with. Then Respondent conducted sovereign debt restructuring process, which was adopted unilaterally, because there was not negotiation between investors and host country.

66. Thus, Claimant asserts that (1) Calrissian’s legitimate expectations formed at the time of the bonds’ acquisition, (2) legal environment in Dagobah is not stable and consistent, (3) Respondent’s actions concerning the sovereign debt restructuring process were not transparent.

1. Claimant expectations were based on the legal order at the time of the bonds’ purchase

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62 Uncontested facts, §17.
64 Occidental Exploration v. Ecuador, §§184-92.
65 Procedural Order No.2, para.21.
67. It is generally accepted that the basic expectations concerning a country’s legal order form “at the time when investor made its investments.”\textsuperscript{66}

68. In \textit{National Grid v. Argentina} it was stated that investor’s expectations which were “reasonable and legitimate in the context in which the investment was made” are protected by the FET standard.\textsuperscript{67}

69. Claimant insists that its legitimate expectations are based on the legal order at the time of the investment’s appearance. The bonds were purchased in the Corellian secondary market in 2005.\textsuperscript{68} At that time recommendations of the International Monetary Fund (hereinafter “the IMF”) with respect to the 2001 economic crisis had already been implemented.\textsuperscript{69}

70. Therefore, Calrissian expected to be a bondholder under the pre-SRA laws, which were not so destructive for claimant’s investment.

2. The legal environment in Dagobah was not stable and consistent at the time of investment

71. In accordance with the Preamble of the BIT, Dagobah is obliged to provide foreign investments with “a stable framework for investment”.\textsuperscript{70}

72. Claimant asserts that two key characteristics of a legal order of any country were not complied with by Respondent, to be more precise, stability and consistency.

73. Any investor who enters into agreement with a foreign country expects stability of the legal framework and a foreign State obliges to provide investors with it. The location of an investment obviously depends on the stability, where a State will not unreasonably

\textsuperscript{66}Rudolf Dolzer, \textit{Fair and Equitable Treatment: Today's Contours}, page 22; \textit{Azinian v. US}, §95-97.

\textsuperscript{67} \textit{National Grid v. Argentina}, §175.

\textsuperscript{68} Procedural order No.2, §11.

\textsuperscript{69} Uncontested facts, §§4-5.

\textsuperscript{70} Corellia-Dagobah, Preamble.
altered the legal and business environment. 71 The FET standard serves as a link between foreign investments and legal stability where the BITs are considered as guarantee. 72

74. In accordance with arbitral practice inconsistency of a host state’s with respect to a foreign investor constitutes violation of FET. 73 Consistency can be determined as a use of a right to regulate within the ordinary expected boundaries. Any act which leads to serious negative consequences should be considered as inconsistent with FET. 74

75. Calrissian has been a bondholder for 12 years. 75 The SRA was implemented after 7 years of rather stable and peaceful existence of the investment. 76 When Claimant made its investment in 2005 it relied on the fact that since the crisis in 2001 there were no any indications of further deterioration. As it was already noted, after the implementation of the International Monetary Fund’s recommendations, Dagobah’s economy was rather stable. 77

76. However, as a result of the Dagobah government’s insufficient actions, economic situation in the country after the 2008 world crisis has been changed significantly. 78 Instead of attempting to recover the situation, the government decided to implement the SRA which led to enormous losses for Claimant and other bondholders. 79 Such an action cannot be considered as included in the concept of stability and consistency of a legal environment in the country.

77. Respondent’s actions led to serious consequences for Claimant. Firstly, the collective action mechanism deprived Calrissian from opportunity to protect its investments indi-

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71 LG&E, Decision on Liability, §124; Occidental Exploration v. Ecuador, §183, §191; Marion Unglaube v. Costa Rica, §220.
72 Rudolf Dolzer, Fair and Equitable Treatment: Today’s Contours, page 23.
74 Rudolf Dolzer, Fair and Equitable Treatment: Today’s Contours, page 21.
75 Procedural Order No.2, §14.
76 Uncontested facts, §17.
77 Procedural order No.2, §11.
78 Uncontested facts, §14.
79 Uncontested facts, §18.
vidually. Secondly, as a result of new regulations, the bonds’ value declined to 70% of the net value.\textsuperscript{80}

78. Thus, the Dagobah’s legal environment in the bonds’ sphere is not stable. Moreover, changes in law similar to the SRA lead to serious losses for foreign investors.

3. **Respondent’s actions lacked transparency**

79. Claimant insists that Respondent did not provide transparency of the upcoming legislation with respect to the sovereign debt restructuring process.

80. In arbitral practice transparency means that the legal framework can be easily foreseen by foreign investors.\textsuperscript{81} According to *Tecmed* the government’s acts should be free from ambiguity and total transparent.\textsuperscript{82} Several aspects of transparency are important.

81. Firstly, a foreign investor should be informed about laws or other binding decisions affecting its investment before they are enacted.\textsuperscript{83} Moreover, in *Metalclad* it was emphasized that if the investor’s right to be heard is not implemented it constitutes violation of FET.\textsuperscript{84}

82. Secondly, depending on the level of transparency in the State’s ‘regulatory environment’ a foreign investor has an opportunity to assess fairness and equality of a particular measure.\textsuperscript{85} It is essential for investors to know beforehand about any new regulations and its purposes that will concern their investments for further use of the investments.\textsuperscript{86}

83. In the case at hand, Claimant was not informed about the enactment of the SRA. Dagobah decided to draft this crucial act only with the International Monetary Fund and did

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\textsuperscript{80} Uncontested facts, §17.

\textsuperscript{81}*Tecmed*, §154.

\textsuperscript{82}*Tecmed*, §154.


\textsuperscript{84} *Mexico v. Metalclad*, §91.


\textsuperscript{86}*Tecmed*, §154; *Occidental Exploration v. Ecuador*, §§190-1.
not make invitation for participation to any of the bondholders.87 It is not enough only
to provide information about the upcoming legislation. Claimant has no opportunity to
change the SRA after assessing its fairness. Moreover, before the Act there were no any
hints indicating such serious changes as the collective action mechanism and the debt
restructuring measures reducing the bonds’ net value to 70%.88

84. Therefore, Respondent failed to provide foreign investor with an access to information
about changes in legislation concerning their investments, which violates the FET
standard.

85. Taking everything into consideration, Respondent did not protected Calrissian’s legiti-
mate expectations, although was obliged pursuant to the BIT and international law.

B. Claimant was treated arbitrary and discriminatory

86. Claimant asserts that Respondent’s actions towards Claimant were of arbitrary and dis-
criminatory character.

87. The standard of arbitrary measures and discrimination can be considered separately89 or
with the framework of the FET standard.90

88. Pursuant to Article 2(2) of the BIT:

“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.”91

89. As the standard is twofold,92 Claimant considers Respondent’s actions as (1) arbitrary
and (2) discriminatory.

1. Respondent’s actions should be considered as arbitrary

87 Procedural order No.2, §21.
88 Uncontested facts. §18
89 Waste Management v. Mexico, §98.
90 S. Vasciannie, The Fair and Equitable Treatment Standard in International Investment Law and Prac-
tice, p.133; Myers v. Gov. of Canada, §263; Mondev International v. US, §127
91 Corellia-Dagobah BIT, Article 2(2).
92 Schreuer, Protection against arbitrary or discriminatory measures, p. 184
90. It is clearly determined by arbitral practice that a host state is not allowed to act arbitrarily towards a foreign investor. In different treaties ‘arbitrary’ treatment can also be determined as ‘unjustified’ or ‘unreasonable.

91. One of the most often-cited International Court of Justice cases in arbitral practice is the ELSI case. According to it, the term “arbitrary” means:

“a willful disregard of due process of law, an act which shocks, or at least surprises, a sense of judicial propriety.”

92. Pursuant to Pope&Talbot, it is enough for a foreign investor only to be “surprised by what the government has done.”

93. As Professor Shreuer noticed that the following categories of measures can be described as arbitrary: firstly, a measure that inflicts damage on an investor without serving any apparent legitimate purpose, i.e. which cannot be justified in terms of rational reasons that are related to the facts of situation; secondly, a measure taken for reasons different from those put forward by a decision maker. To be more precise, a public interest should be put forward as a pretext to take measures that are designed to harm an investor.

94. In accordance with the FET standard it is essential to consider the intent of the governmental measures. The conduct of a host state should not be lead by domestic politics, but by ‘considerations related to the investment’.

95. Respondent enacted the SPA with the proposal to agree with the new sovereign debt restructuring process or not. It indicates that the new sovereign debt restructuring

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93 Parkerings v Lithuania, §315; Pantechniki v. Albania, §87; Tecmed, §154; Alpha Projektholding v. Ukraine, §420.
94 Schreuer, Protection against Arbitrary or Discriminatory Measures, p.183.
95 Schreuer, Protection against arbitrary or discriminatory measures, p. 184; Azurix v. Argentina, §392; CME v. Czech Republic, Partial Award, §612; Noble Ventures v. Romania, §176-177; Siemeris v. Argentina, §318.
96 ElettronicaSicula S.P.A. §128.
97 Pope & Talbot v. Canada. Award in Respect of Damages §64.
99 Rudolf Dolzer, Fair and Equitable Treatment: Today's Contours, p.31.
process was not the only possible measure eliminating the consequences of the economic crisis.\textsuperscript{101} Moreover, this measure cannot be reasonable in terms of rational reasons, as the losses for investors amounted to 30% because the offer was to exchange bonds for new ones worth approximately 70% of the net value of the outstanding sums under the original bonds.\textsuperscript{102}

96. Besides, there is the fact that Dagobah was in the economic crisis, so it tried to protect public interests that it means the own interest of the government, not the interests of the investors. There is no discussion that such a public interest as survival in economic crisis respondent always put higher that private interests of an investor. Thus, a public interest was be put forward as a pretext to take measures that are designed to harm the investor.

97. So, Claimant insists that this test has not been respected by Respondent.

2. Respondent’s actions should be considered as discriminatory

98. Discrimination can take different forms. In the context of international investment law the most frequent problem is discrimination measures on the basis of nationality.\textsuperscript{103}

99. In order to prove that Respondent’s measures were discriminatory, Claimant demonstrates (a) the basis of comparison for discrimination, and (b) the existence of \textit{de facto} discrimination.

\textit{a. The basis of comparison for discrimination}

100. According to \textit{Nycomb v. Latvia}, in determining the existence of discrimination only “like with like” investors should be compared.\textsuperscript{104} Moreover, in \textit{Saluka v. Czech Republic} it was stated that:

“State conduct is discriminatory, if (i) similar cases are (ii) treated differently (iii) and without reasonable justification.”\textsuperscript{105}

\textsuperscript{100} Uncontested facts, §17.
\textsuperscript{101} Ch. Schreuer, \textit{Protection against arbitrary or discrimination measures}, p. 188.
\textsuperscript{102} Uncontested facts. §18.
\textsuperscript{104} Nykomb v. Latvia, Stockholm International Arbitration Rev. 2005:1, Section 4.3.2 at p.99.
101. In the present case, an appropriate investor for comparison is any bondholder who was deprived from opportunity to influence the process of the SRA implementation.

102. In accordance with the BIT, Dagobah is obliged to “promote greater economic co-operation” between Dagobah and nationals from Corellia. As Dagobah made no attempts to discuss the upcoming changes in legislation and, consequently, in the contract, with bondholders, it is obviously constitutes discrimination of foreign investors.

b. De facto discrimination

103. The next issue concerns objective and subjective nature of discrimination. Claimant insists, that in the case at hand, the intent of the sovereign debt restructuring measures has no decisive power (subjective approach). This position was confirmed in a number of arbitral decisions. Therefore, an objective approach should be applied, demonstration the discriminatory consequences are necessary.

104. So, it is recognized that the fact of different treatment a sufficient basis for a finding of discrimination. The fact that Claimant was in extremely adverse conditions in this situation, is confirmed by the fact that he was in the minority of those investors who were against the SPA and Respondent did not offer various other options for them.

105. As a result, Calrissian was accorded arbitrary and discriminatory treatment by Dagobah.

106. Taking everything into consideration, Dagobah breached its obligation to provide the foreign investor with fair and equitable treatment.

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105 *Saluka Investments v. Czech Republic*, §313.
106 *Corellia-Dagobah BIT*, Preamble.
V. RESPONDENT’S DEBT RESTRUCTURING MEASURES ARE NOT EXEMPTED FROM BREACHING THE CORELLIA-DAGOBAH BIT

107. The exemption from breaching BIT is possible, when essential security interests (thereafter “ESI”) of a Party are at stake and require protection.\textsuperscript{10} This approach is confirmed in the BIT: “Nothing in this Treaty shall be construed to preclude a Party from applying measures that are necessary for the fulfilment of its obligations with respect to … the protection of its own essential security interests.”\textsuperscript{11} Nevertheless, respondent’s actions are not covered under the exemption provision; thus, the standard of fair and equitable treatment is breached.\textsuperscript{12}

108. Neither respondent’s debt restructuring measures were adopted (A) in conformity with their BIT obligations, nor did respondent act (B) in conformity with customary international law as to rely on the necessity defence.

A. Dagobah’s actions violated the BIT

109. Under the practice of investment dispute resolution the BIT “essential security clause”\textsuperscript{13} constitutes a separate defense, as invoked to exempt the breach under the treaty.\textsuperscript{14} The “essential security” provision therefore constitutes \textit{lex specialis}, which being applied first, would obviate the need to engage in the customary international law.\textsuperscript{15} Under this defense the exemption from breaching BIT is possible as long as (1) economic crisis amounts to ESI in question and as long as (2) ESI provisions are drafted to be explicitly self-judging, none of which is satisfied in the case in hand.

1. Economic situation in the country cannot lead to the protection of ESI

110. There is no indicative list of examples of the concept of ESI. For instance, such documents as NAFTA, GATS and Energy charter treaty each present a unique list of areas

\textsuperscript{10} Corellia-Dagobah BIT, Article 6.

\textsuperscript{11} Corellia-Dagobah BIT, Article 6.

\textsuperscript{12} UNCTAD, 2009, p.112.

\textsuperscript{13} Corellia-Dagobah BIT, Article 6.

\textsuperscript{14} L&E, §245; CMS, Annullment Decision, §130.

\textsuperscript{15} CMS, Annullment Decision, §134.
defined as ESI and, yet, none of them name economic crisis among them. The provisions named in those documents precisely define and circumscribe ESI covered, whereas Corellia-Dagobah BIT includes a provision with a standard of ESI which is not further limited or defined. This standard can also be marked in various BITs.

111. So, even thought the ESI concept is not exhaustive, no documents named mention the economic crisis while listing ESI.

112. Even if the economic crisis can amount to ESI, it has to satisfy certain requirements developed in the decisions of the tribunals on the economic crisis in Argentina 2001, which highlighted concerns regarding the obligations of the host nation versus the obligations of foreign investors and scrutinized the economic crisis-ESI correlation.

113. The tribunals on economic crisis in Argentina confirm the possibility of economic crisis amounting to ESI by rejecting the idea that ESI are limited to national security concerns of an international character, since “there is nothing in the context of CIL…that could on its own exclude major economic crises”.

114. These cases provide certain standards for economic crisis to satisfy to be viewed as ESI. The economic crisis has to lead to “a major breakdown with all its social and political implications” and “result in total economic and social collapse” to make the invocation of a necessity defense possible.

115. Hence, it ought to be established how grave the economic difficulties might be, hence the severe crisis does not necessarily equate with the situation of total collapse. Even though due to the crisis the business could not have continued as usual, there was no situation of total collapse as social and political instability could be handled by Dag-

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116 NAFTA, Article 2102; Energy charter treaty, Article 24; GATS, Article XIVbis; draft MAI Article on General Exceptions.
117 Corellia-Dagobah BIT, Article 6.
118 The US model BIT; Australia-India BIT, Article 4; India-Czech Republic BIT, Art.12 and others.
119 CMS, Award; Sempra, Award; Enron.
120 CMS, Award, §359.
121 CMS, Award, §§319, 322.
122 CMS, Award, §§319-359.
bah’s government, likewise in Argentina, under the constitutional arrangements in force, rather than modifications in the economy of the state.123

116. The list of requirements economic crisis ought to satisfy is not exhaustive and, whether it could suffice for invocation of necessity depends on the circumstances of the case.124

2. ESI provisions in BIT are not of self-judging character

117. ESI are not exclusively listed but, since the ESI provision is not of self-judging character, the parties have no right to unilaterally determine the legitimacy of extraordinary measures as well as to decide whether ESI of the state are at stake.125

118. In CMS v Argentina the tribunal concluded that the self-judging character of the essential security clause ought to be stated expressly by, for instance, including a “which it considers necessary” provision.126 In the CMS, Enron and LG&E cases the clause of US-Argentina BIT was worded as “this Treaty shall not preclude the application by either Party of measures necessary” and held to be not expressly drafted, therefore, not self-judging.127 Thus, the clause of the BIT worded “nothing in this Treaty shall be construed to preclude a Party from applying measures that are necessary”, similarly, cannot be viewed as expressly drafted and self-judging.

119. Thus, it is not for Dagobah to unilaterally determine the necessity of ESI-relating measures adopted and respondent is not entitled to rely on the self-judging “essential security clause” to exempt the breach under the treaty.

B. Respondent’s actions were not in conformity with the international customary law

120. The tribunals on the economic crisis in Argentina while scrutinizing whether such can amount to ESI also examined the necessity defence under CIL which respondent relied on similarly to the current case.128

123 Enron, §306.
124 Crawford, p.37.
126 CMS, Award, §370.
127 CMS, Award, §373; Enron, §335; L&E, §212.
128 Uncontested facts, §26; Corellia-Dagobah BIT, Article 6.
121. The responsibility of a state under customary international law is regulated in the International Law Commission’s Articles (hereinafter – the ILC Articles) that include observation of circumstances precluding wrongfulness.\textsuperscript{129} In Article 25 of the ILC Articles the necessity test is construed of four stages.\textsuperscript{130}

122. First of all, the act should be the only way for the State to safeguard an essential interest against a grave and imminent peril.\textsuperscript{131} So, if other steps could safeguard the interest, even if they are more difficult or costly to the state, these alternative means must be invoked.\textsuperscript{132}

123. For instance, in the \textit{Gabcikovo-Nagymaros Project case} Hungary could have “resorted to other means in order to respond to the dangers that it apprehended”.\textsuperscript{133} In the case mentioned Hungary could have constructed the works needed to regulate flows along the old bed of the Danube and the side-arms. Likely in the current case there were other measures to implement possible\textsuperscript{134} such as devaluation of the national currency, spending cuts and tax raising along with limiting tax evasion, and a bailout that IMF suggested it could facilitate.

124. Out of a wide range of measures possible Dagobah focused exclusively on modifying the bonds. Consequently, debt restructuring was not the only way to safeguard the interest.

125. Secondly, an act of a state should not also seriously impair an essential interest of the State or States towards which the obligation exists, or of the international community as a whole.\textsuperscript{135} The requirement basically means that the interest sacrificed for the sake of necessity must be less important that the interest sought to be preserved through the action.\textsuperscript{136}

\begin{itemize}
\item \textsuperscript{129} ILC Articles, Articles 20-25.
\item \textsuperscript{130} \textit{Chubb; Hoelck Thjoernelund}.
\item \textsuperscript{131} ILC Articles, Article 25(1)(a).
\item \textsuperscript{132} ILC, see note 2, 203.
\item \textsuperscript{133} \textit{Gabcikovo-Nagymaros case}, §§44-45.
\item \textsuperscript{134} Uncontested facts, §15.
\item \textsuperscript{135} ILC Articles, Article (1)(b).
\item \textsuperscript{136} \textit{L&E}, §252
\end{itemize}
126. The SRA enacted by Dagobah implemented changes as to modifying the terms of the bonds from the consent of all bondholders required to a qualified majority consent. Along with the retrospective effect given to the Act this change might be viewed as impairing interests and causing losses to the states towards which the obligation exists, which under the new provisions could be and were forced to participate in the exchange offer.

127. Furthermore, these changes seem to impair international community as a whole as Dagobah, being actually unable to secure additional funds on the international financial markets on terms that it would be reasonably able to fulfil, yet, offered bondholders the option to exchange their bonds for new ones and, as a result, currently, most of Dagobah’s debts are in form of bonds held by millions of private investors all over the world.

128. Thirdly, there should be no exclusion of necessity in the international obligation in question. Under Article 6 of the BIT “Nothing in this Treaty shall be construed to preclude a Party from applying measures that are necessary for the fulfilment of its obligations with respect to … the protection of its own essential security interests.” Therefore, there is no exclusion of necessity in the international obligation in question and the third step of the necessity test is satisfied.

129. Finally, there could be no invocation of necessity if the State has contributed to the situation of necessity. In the Gabcikovo-Nagymaros Project case the ICJ considered that Hungary “had helped, by act or omission to bring” about the situation of alleged necessity by entering into and later seeking to abrogate a treaty despite the fact that it had full knowledge that the project would have certain environmental consequences.

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137 Uncontested facts, §17.
138 Appendix 6, Request for arbitration 5.
140 ILC Articles, Article 2(a).
141 Corellia-Dagobah BIT, Article 6.
142 ILC Articles, Article 25(2)(b).
143 Gabcikovo-Nagymaros case, §45.
130. In a manner alike in the CMS tribunal it was held that "the crisis was not of the making of one particular administration and found its roots in the earlier crisis of the 1980s and evolving governmental policies of the 1990s that reached a zenith in 2002 and thereafter". The tribunal, having observed governmental policies and their shortcomings, came to the conclusion that those significantly contributed to the crisis and the emergency and while exogenous factors did fuel additional difficulties they did not exempt respondent from its responsibility in the matter.

131. Reviewing the development of Dagobah economic situation E. Brock, international correspondent in Dagobah, highlighted that “many have criticized its expansive borrowing policy, which has not been complemented by adequate reforms on the revenue side.” He also stated that the default of 2001 resulted in Dagobah being not prepared for the difficult times brought about by the 2008 economic crisis. The economic crisis of 2008 can be viewed as an exogenous factor that had certain effect on the economic situation in Dagobah, however, likewise it was held in the Enron tribunal that "…there has been a substantial contribution of the State to the situation of necessity and it cannot be claimed that the burden falls entirely on exogenous factors."

132. So, the initial crisis of 2001, which had not been eliminated and, consequently, contributed to the 2010 crisis situation, was respondent's fault due to a decade of heavy borrowing on international financial markets combined with high government budget deficits, partly caused by massive tax evasion.

133. Such kind of contribution seems to be rather sufficiently substantial; the very contribution of the economic crisis of 2008 does not exempt respondent from the breach of the BIT obligations and, eventually, respondent cannot invoke necessity as a ground for precluding wrongfulness.

134. Therefore, there were no exceptional circumstances established by the BIT to violate law with respect to foreign investors.

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144 CMC, Award, §329.
145 CMS, Award, §§329-30.
147 Enron, §312.
148 Uncontested facts, §3.
RELIEF SOUGHT

Claimant respectfully prays to the Tribunal for the following relief:

1) To find that this Tribunal has jurisdiction under the BIT to decide the present dispute since the bonds should be considered as investments;

2) To find that this Tribunal has jurisdiction over the present dispute notwithstanding existence of the forum selection clause in the contract;

3) To find that the PCA decision should be taken into consideration by this Tribunal;

4) To find the retroactive effects of the Dagobah’s Sovereign Restructuring Act and other measures established as a part of the sovereign debt restructuring process, as violating Respondent’s obligation to provide fair and equitable treatment under Article 2 of the Corellia-Dagobah BIT;

5) To find that Respondent had no exceptional circumstances to implement discriminatory legislation;

6) To find that Calrissian is entitled to receive full compensation for all the losses it incurred as a result of the Respondent’s violations, including interest;

7) To find that Calrissian is entitled to the restitution by Dagobah of all costs concerning these proceedings.

Counsels for the Claimant

20 September 2014