

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. ANDREW BORROK PART 53**

*Justice*

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**INDEX NO. 657237/2020**

REPUBLIC OF HAITI, BUREAU DE MONETISATION DE  
PROGRAMMES DAIDE AU DEVELOPPEMENT

01/19/2021,  
01/19/2021,  
09/08/2021

Plaintiff,

**MOTION DATE**

- v -

**MOTION SEQ. NO. 001 002 003**

PREBLE RISH HAITI SA,

**DECISION + ORDER ON  
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 22, 43, 44, 45, 46, 65

were read on this motion to/for STAY.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 10, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 47, 48, 49, 50

were read on this motion to/for PREL INJUNCTION/TEMP REST ORDR.

The following e-filed documents, listed by NYSCEF document number (Motion 003) 58, 59, 60, 61, 62, 63, 64, 66, 67

were read on this motion to/for DISCOVERY.

Upon the foregoing papers and for the reasons set forth on the record (9/27/2021), the petition to stay arbitration is denied. It is beyond dispute that the parties freely and unequivocally agreed to arbitrate all of their disputes in New York (NYSCEF Doc. Nos. NYSCEF Doc. No. 29, 31, 33, Art. 20). Indeed, the petitioners drafted the very agreements containing the arbitration clauses they now seek to invalidate (NYSCEF Doc. No. 26, ¶¶ 3-8). The petitioners fail to establish that the arbitration provisions are illegal under Haitian law or to otherwise invalidate the agreements they drafted (*compare* NYSCEF Doc. No 45 [agreements are illegal under Article 956] *with* NYSCEF Doc. Nos. 28 and 48 [explaining that Article 973, which supersedes Article 956,

provides that the prohibition on arbitration does not apply to *international arbitration*, which Article 971 defines as arbitration involving “international trade”]; *see also* NYSCEF Doc. No. 49). The agreements at issue are clearly international in scope (*see e.g.*, NYSCEF Doc. No. 49). The petitioners offer no support for their contention that the arbitration clauses were included by mistake. Inasmuch as the agreements contained an alternate method for service of the demand for arbitration, service under the Hague Convention was not required. Finally, because CPLR § 7505(3) requires that an “application to stay arbitration must be made ... within twenty days of the notice or demand,” or else be “precluded,” the petitioners are also precluded from seeking to stay arbitration now as their petition was filed at least 32 days after notice of arbitration was served by the respondent in accordance with the parties’ agreements. Accordingly, (i) the petition to stay arbitration (mtn. seq. 001) is denied, (ii) the petitioners’ motion (mtn. seq. 002) to stay arbitration is denied, (iii) the respondents’ cross-motion to compel arbitration is granted, and (iv) the petitioners’ motion for disclosure and fees are denied as moot.

It is hereby,

ADJUDGED that the petition to stay the subject arbitration is denied in all respects, and the petition is dismissed, with costs and disbursements to respondent; and it is further

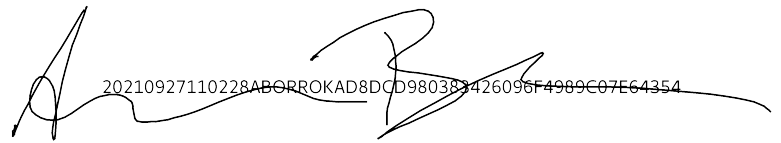
ADJUDGED that the parties shall proceed to arbitration forthwith and respondent’s counsel shall serve a copy of this judgment upon the arbitral tribunal; and it is further

ADJUDGED that respondent, having an address at 5eme Etage, Immeuble Hexagone, Angle Rues Clerveaux et Darguin, Petion-Ville, Haiti, do recover from petitioner, having an address at 12, Boulevard Harry Truman, Port-au-Prince, Haiti, costs and disbursements in the amount of \$ \_\_\_\_\_ as taxed by the Clerk, and that respondent have execution therefor; and it is further

ORDERED that the motion (seq. no. 002) to stay arbitration is denied; and it is further

ORDERED that the cross-motion to compel arbitration is granted; and it is further

ORDERED that the motion (seq. no. 003) to compel production is denied as moot.



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9/27/2021

DATE

ANDREW BORROK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE