

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

A.D. TRADE Belgium S.P.R.L.,

Plaintiff,

v.

The Republic of Guinea,

Defendant.

Civil Action No. _____

**DECLARATION OF
CÉDRIC FISCHER**

DECLARATION OF CÉDRIC FISCHER

I, Cédric Fischer, Esq., hereby affirm under penalty of perjury that the following is true and correct:

1. I am an attorney and partner with the law firm FTMS Avocats in Paris, France. I hold a Master of Laws (*Maîtrise*) in Judicial Careers and a Postgraduate degree (*DEA*) in Real Estate, Urban and Rural Law from the University of Paris II Panthéon-Assas. I have been admitted to practice law in France since 1980. I was counsel for Plaintiff A.D. Trade Belgium S.P.R.L. (“A.D. Trade”) in the underlying arbitrations against the Republic of Guinea convened by the International Chamber of Commerce’s International Court of Arbitration (“ICC”) in Paris, France.

2. Attached as Exhibit A is a true and correct copy, in the original French language, of the Final Award of the ICC in Paris, France, in Case No. 21390/MCP/DDA between A.D. Trade and the Republic of Guinea, dated November 22, 2017 (“2017 Award”).

3. Attached as Exhibit B is a certified English language translation of the 2017 Award.

4. Attached as Exhibit C is a true and correct copy, in the original French language, of the “Leopard” Project, Contract No. ADT – UR 134/11, between A.D. Trade and the Republic of Guinea, dated January 11, 2011 (“Contract Leopard”).

5. Attached as Exhibit D is a certified English language translation of Contract Leopard.

6. Attached as Exhibit E is a true and correct copy, in the original French language, of the “Panther” Project, Contract No. ADT – GR 133/11, between A.D. Trade and the Republic of Guinea, dated January 11, 2011 (“Contract Panther”).

7. Attached as Exhibit F is a certified English language translation of Contract Panther.

8. Attached as Exhibit G is a true and correct copy, in the original French language, of the order of exequatur issued by the Tribunal de Grande Instance of Paris, dated December 8, 2017 (“2017 Exequatur”). The Tribunal de Grande Instance of Paris is now known as the Tribunal Judiciaire de Paris. The order of exequatur is reflected in the stamps by the court on a copy of the 2017 Award.

9. Attached as Exhibit H is a certified English language translation of pages 4, 66, and 83 of the 2017 Exequatur.

10. The stamp by the court on page 66 of the 2017 Exequatur is not completely legible, but a certified translation of the complete text—which is the standard exequatur text in France—is attached as Exhibit I.

11. Attached as Exhibit J is a true and correct copy, in the original French language, of the summons demonstrating service of the 2017 Exequatur to the Republic of Guinea in Conakry, Guinea, by Didier Avalue, an Associate Bailiff, from Paris, France, dated January 10, 2018 (“Summons”).

12. Attached as Exhibit K is a certified English language translation of the first two pages of the Summons.

13. Attached as Exhibit L is a true and correct copy, in the original French language, of the Dispatch Slip demonstrating receipt on March 6, 2018, of the Summons and the 2017 Exequatur by the Republic of Guinea (“Dispatch Slip”).

14. Attached as Exhibit M is a certified English language translation of the Dispatch Slip.

15. The Republic of Guinea applied to the Paris Court of Appeal to annul or set aside the 2017 Award. Under French law, this application to annul or set aside the 2017 Award also appealed the entry of the 2017 Exequatur by the Tribunal de Grande Instance of Paris.

16. Attached as Exhibit N is a true and correct copy, in the original French language, of the Judgment of April 13, 2021, issued by the Paris Court of Appeal in Case No. 18-09809 – Portalis No. 25L7-V-B7C-B5WLE between the Republic of Guinea and A.D. Trade (“Paris Court of Appeal Judgment”).

17. Attached as Exhibit O is a certified English language translation of the Paris Court of Appeal Judgment.

18. The Paris Court of Appeal Judgment denied Guinea’s application to annul or set aside the 2017 Award and thereby also dismissed the Republic of Guinea’s appeal of the 2017 Exequatur. Ex. N § 94.

19. As of the date of this Complaint, the French courts have not annulled, set aside, or otherwise disturbed either the 2017 Award or the 2017 Exequatur.

20. Under the laws of France, the 2017 Exequatur recognized the 2017 Award and incorporated it into the French legal system. Code de Procédure Civile [Civil Procedure Code] art. 1514, *et seq.* (Fr.). The effect of the 2017 Exequatur is that the 2017 Award granting a sum of money is final, conclusive, and enforceable in France. Code des Procédures Civiles d’Exécution

[Civil Enforcement Proceedings Code] art. L111-3, 2°(Fr.). The 2017 Exequatur became enforceable as of the date it was served on the Republic of Guinea, which here was March 6, 2018. Code de Procédure Civile [Civil Procedure Code] art. 503 (Fr.).

21. Attached as Exhibit P is a true and correct copy, in the original French language, of the Final Award of the ICC in Paris, France, in Case No. 22374/DDA between A.D. Trade and the Republic of Guinea, dated February 3, 2020 (“2020 Award”).

22. Attached as Exhibit Q is a certified English language translation of the 2020 Award.

23. Attached as Exhibit R is a true and correct copy, in the original French language, of the Memorandum of Understanding between the Republic of Guinea and A.D. Trade, dated June 4, 2015 (“Elephant Protocol”).

24. Attached as Exhibit S is a certified English language translation of the Elephant Protocol.

25. As of the date of this Complaint, the French courts have not annulled, set aside, or otherwise disturbed the 2020 Award.

26. In the years since the ICC tribunals made the 2017 Award and the 2020 Award, the Republic of Guinea has paid nothing to A.D. Trade.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 28, 2022
Paris, France



Cédric Fischer, Esq.
FTMS Avocats
67, boulevard Malesherbes,
75008 Paris, France
+33 1 47 23 47 24
cfischer@ftmsavocats.com