

THE PERMANENT COURT OF ARBITRATION AT THE HAGUE

Case No. 2020-08

**IN THE MATTER OF AN ARBITRATION UNDER THE UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW ARBITRATION RULES 2010 AS REVISED IN 2013**

Between

AKGUN INSAAT MAKINA SANAYII VE DIS TICARET LTD. STI.

... Claimant

and

FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

... Respondent

PROCEDURAL ORDER NO. 4

19 October 2022

Tribunal

Dr Michael Hwang S.C., Presiding Arbitrator

Professor Philip J. McConaughay, Arbitrator

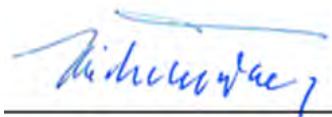
Sir David A R Williams KNZM, QC, Arbitrator

Secretary to the Tribunal

Mr Kevin Tan

PROCEDURAL ORDER NO. 4 – POST-HEARING SUBMISSIONS

1. The Tribunal thanks the Parties for their patience regarding the Final Award. The Tribunal now poses the following questions to the Parties, and requests them to file Post-Hearing Submissions on each question, adhering to the stated word limit for each (which does not include citations).
2. The questions for the Parties are as follows:
 - 2.1. **Police powers doctrine and expropriation. Word count limit: 3000.**
 - 2.1.1. What is the content and scope of the police powers doctrine under customary international law? How should this doctrine be applied to the facts of this case?
 - 2.1.2. As a matter of law, what is the relationship between the police powers doctrine and the 'sole effects' doctrine? If there is a conflict between how the two doctrines are applied, how should the conflict be resolved and why?
 - 2.2. **'Importation' of umbrella clauses. Word count limit: 3000.**
 - 2.2.1. Please submit on whether and to what extent this Tribunal should adopt the reasoning in paragraphs 326-329 of the case of *Içkale İnşaat Limited Şirketi v. Turkmenistan*, ICSID Case No. ARB/10/24 regarding the 'importation' of umbrella clauses via a most-favoured-nation clause.
 - 2.3. **Leaseholds under Ethiopian law. Word count limit: 1000.**
 - 2.3.1. Under Ethiopian law, are leaseholds considered to be a property right?
 - 2.4. **Mitigation of damages. Word count limit: 3000.**
 - 2.4.1. Under international law, what are the principles regarding mitigation of losses in the context of calculating the quantum of damages?
 - 2.4.2. In particular, what is the implication for the calculation of quantum of damages if the aggrieved party does not take up a reasonable opportunity to mitigate its losses?
 - 2.5. **Costs. Word count limit: 3000.**
 - 2.5.1. Please submit on how costs should be apportioned and why.
3. The Tribunal directs the Parties to file these Post-Hearing Submissions by **11 November 2022**.
4. The Tribunal reserves the right to pose further questions to the Parties in the future if it deems it necessary.

**Michael Hwang S.C.**Presiding Arbitrator
For and on behalf of the Tribunal