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The XIII

NLSTIAM

National Law School - Trilegal International Arbitration Moot

21st - 24th May 2020

CASE STUDY



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STATEMENT OF FACTS

1. The Republic of Filandria is an up and coming superpower that is slated to upset the world economic order. Experts have predicted that the country's growing youth population, fluency in English and strong focus on technology-driven services, will propel the economy forward and challenge the hegemony of existing economic giants.
2. Filandria is also a thriving democracy that is incredibly diverse. The Republic is built on a bedrock of robust constitutional principles of justice, liberty, equality and fraternity. The Supreme Court of Filandria has been at the forefront of preserving and building on these constitutional values and has been a strong advocate of rights-based jurisprudence.
3. The economy of Filandria, in recent times, has been going through a rocky patch. The growth rate has dipped and unemployment has been on the rise. The government has acknowledged these problems and has taken a number of measures to actively counter these challenges. The government has publicly stated that reviving the economic downfall will be its number one priority and has put all other policy measures on hold. However, despite these efforts, due in part to unfavourable geo-political developments worldwide, progress has been slow.
4. The growing discontentment has led a significant portion of its populace to take to the streets to protest. Rallies have been organized across the country. The police force in Filandria has found itself under enormous pressure to control the situation. To make matters worse, some of these protests started taking a violent turn. There was rampant vandalism and wide-spread destruction of public property. The police suspected that fringe elements had entered the crowd of protesters and were disrupting these protests. However, given the scale of the protests and the already strained resources, the police found it impossible to identify these fringe elements. The police also feared that the violence – which was presently restricted to certain isolated pockets – would soon spread across the country, posing an enormous law and order problem. It was imperative that urgent measures were taken to stem this tide.
5. On 20 September 2019, the government called for a high-level meeting of its most senior ministers to arrive at a solution. It was resolved that urgent technological intervention was the only viable option. A proposal was made to deploy drones and adopt facial recognition software to supplement the efforts of the police in helping to identify the perpetrators of violence. Since Filandria had recently embarked on a nation-wide move to collate biometric information of its citizens, the government felt confident that this technological option would bring about swift and reliable results. On the same day, an order was issued to

National Police Procurement Corporation (NPPC), a public sector undertaking, to immediately start the process of procuring the technology.

6. Facial recognition, particularly at scale, is still a nascent technology worldwide. Only a handful of companies claim to have the requisite know-how, and even fewer the manufacturing capability to integrate the technology with drones. Of these, ABC GmbH, a company incorporated in Fitzerland, was widely believed to have the shortest turn-around time on account of maintaining a very sizeable, ready stock of inventory. For this reason, the prices of their drones were about 25% higher than those of comparable drones sold by their competitors. ABC GmbH also had a proven track record of deploying their drones to law enforcement agencies in countries across continental Europe – all of whom had publicly acknowledged the sophistication and excellence of ABC GmbH’s technology and offering.
7. Encouraged by the strong credentials, and given the urgency of the matter, NPPC approached ABC GmbH and set out its requirements. ABC GmbH invited NPPC officials to test these drones either in Filandria or at their labs in Durich, Fitzerland where they could tour ABC’s facilities and evaluate their offering. Officials of NPPC gladly accepted the invitation to visit ABC GmbH’s facilities on 1 October 2019. NPPC was particularly interested in ABC GmbH’s latest offering, the TRC 2645. This particular model was coded with an extremely advanced Artificial Intelligence algorithm capable of distinguishing a violent action from a peaceful protest. It was also able to integrate with the biometric information database maintained by the State of Filandria, process images against this database real-time and send information to police personnel via an application installed on their phones within seconds of the scan. This package would enable law enforcement agencies to identify within seconds when a protest turns violent and take the necessary counter-measures.
8. After a successful demonstration in the Durich lab, NPPC was extremely impressed and immediately placed an order for 2000 units of the TRC 2645 at a per-unit rate of € 50,000. This was the biggest order ABC GmbH had ever received. ABC GmbH indicated that they only had 500 units ready for immediate dispatch, but it could expedite the manufacture of the remaining 1500 units and deliver them within a month. ABC GmbH indicated that expediting the process would increase their manufacturing costs by 20% but they were willing to absorb the increased costs to meet the requirements. NPPC accepted these terms.
9. Even though the trip was only supposed to be exploratory, a contract recording the terms of the agreement between the parties was executed in Durich. The key terms of the contract (the “Contract”) are set out as Annexure - 1.

10. As per the terms of the Contract, ABC GmbH agreed to deliver the units as follows:
 - a. First Tranche: 500 Units to be dispatched on or before 5 October 2019
 - b. Second Tranche: 500 Units to be dispatched on or before 10 October 2019
 - c. Third Tranche: 500 Units to be dispatched on or before 21 October 2019
 - d. Fourth Tranche: 500 Units to be dispatched on or before 31 October 2019
11. The total contract value of € 100 million was to be paid by NPPC as follows: an advance of € 20 million to be paid immediately upon execution of the Contract. The subsequent payments were to be made in four instalments, with each instalment being due within 12 days from the date of receipt of confirmation of dispatch of each tranche of shipment. The Contract also set out that all payments were to be made to ABC GmbH's Bank Account by way of wire transfer, with all charges to be borne by the transferee.
12. ABC GmbH conducted its final tests on the TRC 2645 units immediately upon the execution of the Contract. NPPC also promptly made the initial advance payment of € 20 million by wire transfer on 3 October 2019. ABC GmbH acknowledged receipt of the transfer. Since this was the first time the company was selling their units outside of continental Europe, the Chief Executive Officer of ABC GmbH, Mr. Shultman, along-with the Chief Technology Officer, Ms. Neumann, and the Chief Financial Officer, Mr. Schrute, personally delivered the first 500 units of the TRC 2645 to the Managing Director of NPPC, Ms. Rastogi at their headquarters in Farare, Filandria on 5 October 2019. They also met several key personnel at NPPC, including their Technology Director, Mr. Jagadish, and their Finance Director, Ms. Chakma. As a gesture of goodwill, and despite there being no specific obligation under the Contract, Ms. Neumann also demonstrated the use and maintenance of the TRC 2645 to a number of employees at NPPC to enable them to start using the drones at the earliest. ABC GmbH also hosted a dinner reception for NPPC and several other government dignitaries at the Fitzerland Consulate in Farare.
13. NPPC was quick to commission the drones and start testing them. Ms. Neumann was in constant touch with Mr. Jagadish during this process by way of email and video conferences to guide them through the process in case they faced any difficulties. The initial tests conducted in Farare were extremely positive and the TRC 2645 was extremely accurate and effective. Soon, several representatives of the police force from various regions of Filandria were chosen to form an elite task force to operate the TRC 2645. They were trained by the NPPC at their central training department in Farare and were deployed across the country.
14. During this time, on 9 October 2019, shortly after ABC GmbH's delegation had left Filandria after delivering the first tranche of the drones, Ms. Chakma at NPPC received an

email from J.Liu@abctech.fe informing her that ABC GmbH was in the process of changing their banking arrangements and that she would be in touch with Ms. Chakma to update her as to the revised bank details.

15. Ms. Chakma promptly replied all to the email and informed Ms. Liu that since the payment dates were fast approaching, she would require the changed details at the earliest, and no later than 3 days prior to the due date. That very evening, Ms. Chakma received an email from d.schrute@abc-tech.fe intimating Ms. Chakma that since the process of changing bank accounts was taking some time, and since the deadline for payments was fast approaching, payment could be made to ABC GmbH's subsidiary, ABC Sdn Bhd which was based in Riberia. The bank account details of ABC Sdn Bhd were enclosed with the email. Ms. Chakma replied to the email and requested for a certificate issued by the local chamber of commerce confirming the relationship between ABC Sdn Bhd and ABC GmbH before she could proceed with the change. Two days later, on 12 October 2019, Ms. Chakma received a courier addressed to her with a letter ostensibly issued by the Riberian International Chamber of Commerce and Industry confirming that ABC Sdn Bhd was a subsidiary of ABC GmbH and also annexing the bank account details of ABC Sdn Bhd.
16. During this time, ABC GmbH had dispatched the second tranche of drones on 10 October 2019, as per the terms of the Contract. An email confirming dispatch was sent by Mr. Schrute to Ms. Rastogi, Mr. Jagadish, and Ms. Chakma. He reminded NPCC that payment against the first tranche of shipments was due on 17 October 2019. He also informed the recipients that he would be away from office on 17 and 18 October 2019, including over the following weekend on vacation without internet access, and therefore there may be some delay in responses. He copied Mr. Shultman and Ms. Neumann on the email and asked NPCC to contact them in case of any difficulty.
17. On 17 October 2019, Ms. Chakma processed the payment request as per the instructions received by her by letter dated 12 October 2019 into the bank account of ABC Sdn Bhd's in Riberia. The same evening, she replied to Mr. Schrute's email of 10 October 2019 and informed him of the transfer. Since Ms. Chakma was travelling the following week, she sent the second tranche payment slightly earlier on 18 October 2019 and replied again on the same email thread confirming that payment had been made.
18. On 21 October 2019, upon his return from his vacation, Mr. Schrute was surprised to find that while Ms. Chakma had emailed him about the payments, there was no credit reflecting in the Company's bank account. Mr. Schrute made enquiries with his Bank who informed him that they had not received any inward remittance from NPCC. Mr. Schrute immediately emailed Ms. Chakma and asked her to provide the bank transfer details of the transfers to

enable him to track the receipt. He received an out of office email from Ms. Chakma's email account which indicated that she was on vacation and was only expected to return on 28 October 2019. Mr. Schrute immediately called Mr. Jagadish about the matter and informed him that there appeared to be some discrepancy. Mr. Jagadish informed Mr. Schrute that he did not have much visibility on financial matters. He also informed Mr. Schrute that Ms. Chakma was on an overseas flight to the USA and was not going to be reachable immediately. He promised to get back to Mr. Schrute at the earliest.

19. Mr. Schrute received an email the following morning from Ms. Chakma with the UTR Number for the Bank Transfers that had been made on 17 and 18 October 2019 respectively. Mr. Schrute immediately noticed that the payments had been made to a Riberian Bank Account which came as a shock. He immediately called Ms. Chakma who informed him that the payments were routed to the Riberian Bank Account as per ABC GmbH's request. Mr. Schrute was unable to immediately comprehend what had happened but requested Ms. Chakma to immediately contact her bank to stop/reverse the transactions. Ms. Chakma promptly called NPPC's Banker, GBS, who informed her that while some action could have been taken if the incident was reported within 2 working days of the instruction, it was now too late as funds had already been credited. Despite this, GBS got in touch with the Riberian Bank which had received the remittance from GBS to see if anything could be done. GBS was informed that no funds remained in the account that had received the remittance as they had all been transferred out in a number of small remittances to bank accounts across the world. Ms. Chakma promptly communicated this to Mr. Schrute and informed him that nothing further could be done at NPPC's end and that ABC GmbH should approach their local police to recover the money.
20. During an internal inquiry conducted after the event, it was discovered that the emails received by Ms. Chakma with the revised bank account details were not sent by ABC GmbH's official domain name. It was also discovered that the letter received from the Riberia Chamber of Commerce was forged, and that no such letter was in fact ever issued.
21. The fact that a significant entity of the State of the Filandria had been the subject of a phishing attack led itself to headlines all over national dailies and was the subject of many panel discussions on prime time. Questions were asked as to how a cyber-attack was allowed to take place at the higher echelons of the State bureaucracy. Prompted by these news reports, the Government of Filandria started a detailed investigation into the contract between ABC and NPPC.
22. The problems for ABC GmbH had only just begun.

23. The elite task force that had been trained by NPPC at Farare, and had been deployed across the country, didn't have to wait long to use the drones. A number of protests that were organised across the country – including a few that had started to turn violent – were successfully controlled, due in large part to the advanced AI engine that powered the TRC 2645 drones that had been deployed. There was however one notable exception. A particularly violent protest broke out in the capital of Filandria, New Riley, when a protest that had been carried out peacefully for over 4 days, suddenly turned violent. On 22 October 2019, a faction among the protestors resorted to throwing bricks on the policemen securing the protests. They also torched a number of civilian and police vehicles. Police had to resort to firing tear gas shells and water cannons to control the crowds but there was large scale damage that had been caused that could not be avoided. Due to the immensely successful results from using the TRC 2645 in other cities, the police had not taken too many other precautionary measures to address possible escalations. However, the TRC 2645 that had been deployed in New Riley inexplicably malfunctioned. It completely failed to identify the escalation of the protests and did not send any alerts to the police forces deployed nearby to allow them to control the situation on the ground.
24. NPPC escalated the issue to ABC GmbH who immediately sent their technical team, including their CTO, Ms. Neumann, to New Riley to evaluate the units. A preliminary test revealed that the PM 2.5 levels in New Riley were so high that the sensors on the drones were unable to capture images of the required resolution to power their AI engine. Historically, the PM 2.5 levels in New Riley are high every year in the beginning of winter due to a confluence of different factors.
25. ABC GmbH had never encountered this problem – primarily because of the geography they had worked with previously. The only solution to the problem was to re-engineer and replace the sensors on the units that were to be used in conditions where PM 2.5 levels were above 1000. This would involve significant research and development. Ms. Neumann anticipated requiring at least 6 months for this exercise. NPPC was absolutely miffed about this as the primary reason NPPC had chosen ABC GmbH was their ability to service the contract expeditiously.
26. To make matters worse, once news got out that NPPC was using facial recognition software to identify and profile people during protests, several civil society organisations were up in arms. The Supreme Court of Filandria had only recently passed a landmark judgment that had upheld the right to privacy. Citizens felt that the use of facial recognition software, particularly in conjunction with the biometric information that the government had collected, was in complete violation of the right to privacy. Several petitions were filed

before the Supreme Court of Filandria and several High Courts across the country challenging the use of this technology. On 24 October 2019, the Supreme Court took notice of the matter and passed an extremely wide order staying usage of any facial recognition technology, and all legal proceedings pertaining to its procurement. The order was to remain in place until the Supreme Court finally determined the matter.

27. In the meanwhile, the investigation into the contract between ABC and NPPC was concluded. While the full report was not disclosed to the public, it noted that there might be applicable rules of public procurement. The investigative team also hinted at issues of corruption and, soon after the investigation concluded, Ms. Chakma resigned from her post at the NPPC.
28. During this time, ABC GmbH had already dispatched the third tranche of the TRC-2645 drones to NPPC as per the terms of the Contract, particularly since there were very hefty liquidated damages prescribed in the Contract for non-compliance. ABC GmbH requested NPPC to make payment for all three tranches. NPPC took the position that they had already made payment for the first two tranches. They maintained that they were under no obligation to make any further payments – either for the first two tranches, or for any further units received – as the units were defective, and, in any event, since there was a stay by the Supreme Court on matters relating to the procurement of the drones, they were unable to make any further payments. On 30 October 2019, NPPC cancelled all remaining orders for the TRC – 2645.
29. After attempting to negotiate and failing to reach a settlement, ABC GmbH commenced arbitration on 21 November 2019. The tribunal was constituted by 10 December 2019. The parties had a procedural conference on 6 January 2020 and the hearing is due to be held on 21 - 24 May 2020.
30. The relevant laws of Filandria are in *pari materia* with the laws of the Republic of India.

ANNEXURE 1

Contract between ABC GmbH and NPPC dated 1 October 2019

Clause 1: Specification of the Goods

ABC will supply NPPC with TRC 2645 drones with the following specifications:

1. Each drone unit will be tested prior to dispatch to ensure that it is functioning as per the installed software and algorithms.

2. The goods shall be fit for purpose.

[...]

Clause 2: Quantity and Delivery

1. ABC shall deliver 2,000 units of the TRC 2645 drones to NPPC as follows:

(a) 500 units to be dispatched on or before 5 October 2019;

(b) 500 units to be dispatched on or before 10 October 2019;

(c) 500 units to be dispatched on or before 21 October 2019; and

(d) 500 units to be dispatched on or before 31 October 2019.

2. Time of performance of this clause is of the essence.

3. If ABC fails to deliver the units as set out in Clause 2(1) above, it shall pay to NPCC an amount equal to 2% of the purchase price of the products for each week the breach continues, subject to a maximum cap of 25% of the total contract price. The parties intend that this amount constitute compensation and not a penalty. The parties acknowledge that the harm caused by ABC's failure to deliver would be impossible or very difficult to accurately estimate at the time of the contract, and the amounts mentioned in this provision are a reasonable estimate of the anticipated or actual harm that might arise.

[...]

Clause 3: Purchase Price and Payment

1. The price per TRC 2645 drone unit is € 50,000 which is payable by NPPC as follows:

(a) € 20 million to be paid within 3 days of the date of this Agreement;

(b) € 20 million to be paid within 12 days from the date of receipt of confirmation of dispatch of the first tranche of delivery as set out in Clause 2(1)(a) above;

(c) € 20 million to be paid within 12 days from the date of receipt of confirmation of dispatch of the second tranche of delivery as set out in Clause 2(1)(b) above;

(d) € 20 million to be paid within 12 days from the date of receipt of confirmation of dispatch of the third tranche of delivery as set out in Clause 2(1)(c) above; and

(e) € 20 million to be paid within 12 days from the date of receipt of confirmation of dispatch of the fourth tranche of delivery as set out in Clause 2(1)(d) above.

2. NPPC's total liability in contract or otherwise in relation to this agreement shall be limited to the purchase price of the TRC-2645 drone units dispatched by ABC pursuant to Clause 2 of this Agreement.

[...]

Clause 10: Force Majeure

1. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if it is prevented or delayed in performing those obligations by an event of force majeure or by events beyond its reasonable control. Such events include but are not limited to act of God, hostilities, war, rebellion, civil war, riot, strikes and acts or threats of terrorism.

Clause 11: Limitation of Liability

1. Neither party will be liable for damages that are remote or speculative, or that the breaching party could not reasonably have foreseen on entry into this agreement.

[...]

Clause 15: Arbitration

1. Any dispute arising out of, relating to, or in connection with this contract, including with respect to the applicability, breach, termination or enforceability thereof, shall be resolved by arbitration.

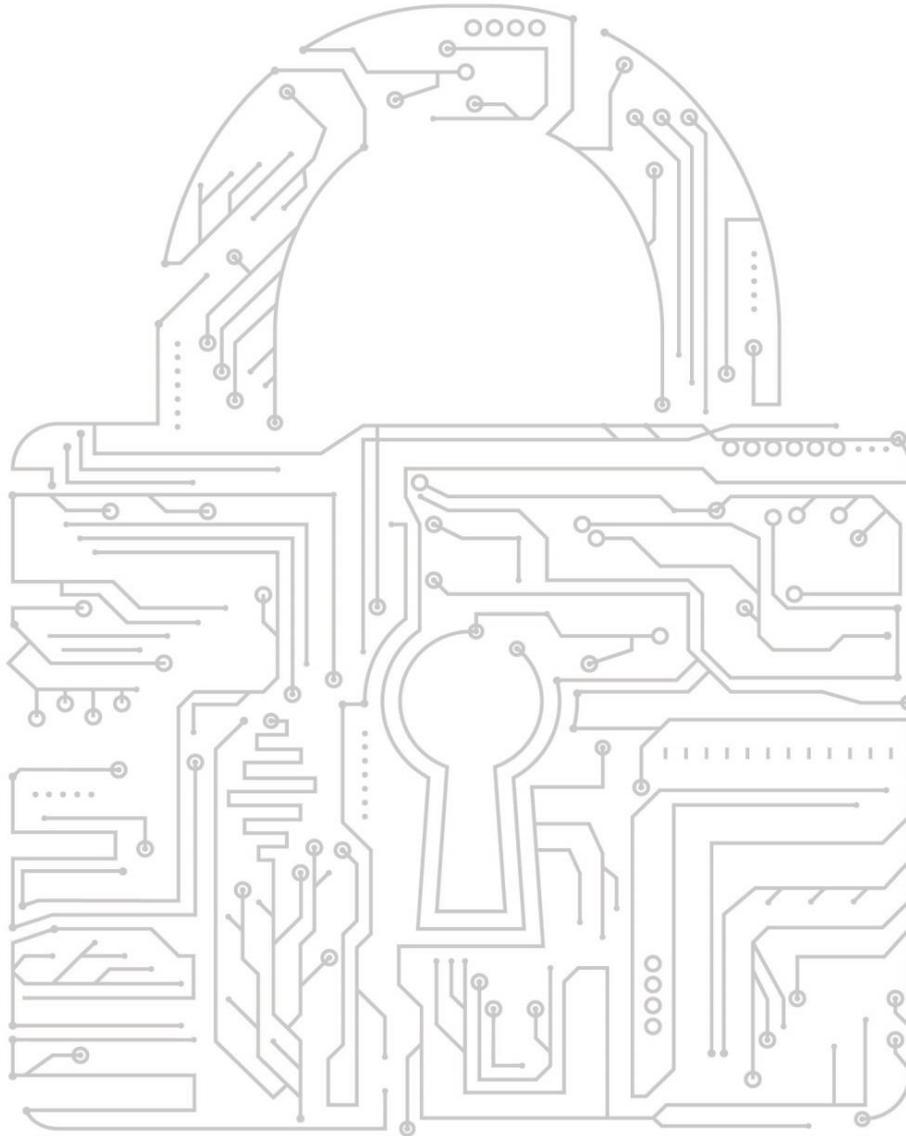
2. The arbitration shall be conducted by three arbitrators, in accordance with the SIAC Rules, 2016 except as they may be modified herein or by mutual agreement of the parties.

4. The arbitration shall take place in London, England.

5. The arbitration award shall be final and binding on the parties, and the parties undertake to carry out any award without delay.

Clause 16: Governing Law

1. This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Filandria.



ANNEXURE 2

PROCEDURAL ORDER

20 January 2020

ABC GmBH

-v-

National Police Procurement Corporation

Tribunal Members:

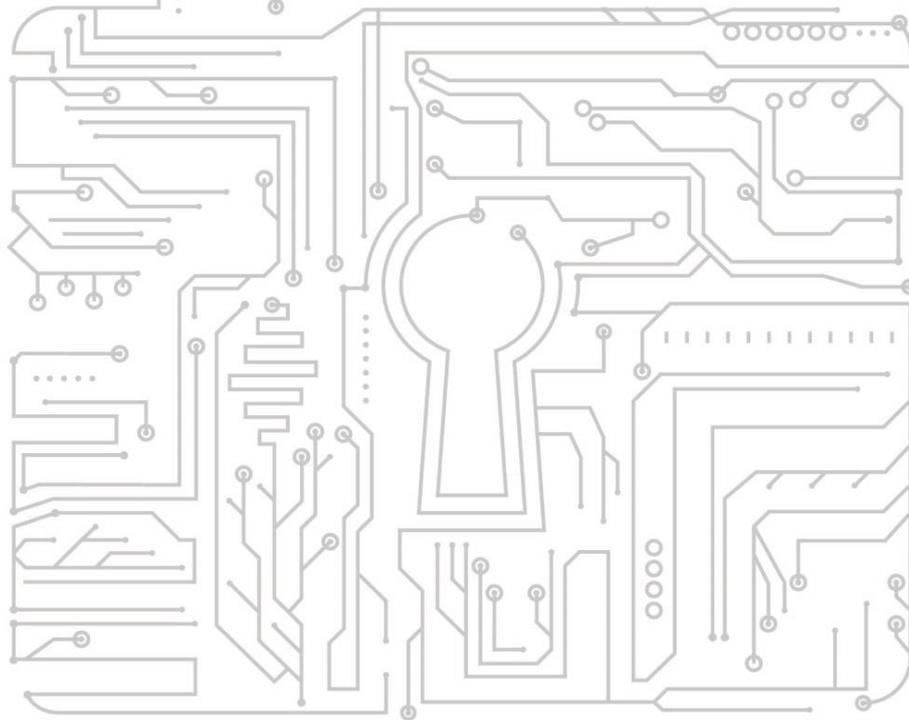
Malala Thunberg

Naomi Williams

Olivia Waller-Bridge (Chair)

1. In the Written Submissions and at the Oral Hearings in Bangalore, the Parties are required to address the following substantive issues:
 - a. Is the issue of the validity of the contract arbitrable;
 - b. Whether NPPC is in breach of its obligations under Clauses 3(1)(b), 3(1)(c) and 3(1)(d) of the Agreement; and
 - c. Whether ABC GmBH is in breach of Clause 1 of the Agreement.
2. The Respondent has filed an application for early dismissal under Rule 29 of the SIAC Arbitration Rules on the ground that the issue of the validity of the contract is non-arbitrable and therefore falls manifestly outside the jurisdiction of the Tribunal. The Tribunal has directed the Respondent to file the application in accordance with Rule 29.2 and will hear arguments from both sides on this issue at the Oral hearings in Bangalore.
3. The tribunal will also address the procedural issue of whether the arbitration should be stayed pursuant to the order of the Supreme Court of Filandria between the Parties at the Oral Hearings in Bengaluru.

4. The Respondent has also requested that all submissions, pleadings, hearings and evidence provided as part of the present arbitration be made public on account of the very significant public interest involved, and in light of the existing court proceedings in Filandria. The Claimant has vehemently objected to this request including by reference to Rule 39 of the SIAC Rules and on grounds of commercial sensitivity. The Tribunal has agreed to hear arguments on these aspects as well during the hearing in Bengaluru.
5. The written submission for the Claimant and Respondent are to be made by 30 March 2020 and in accordance with Rule 20 of the SIAC Rules.
6. Any requests for Clarification may be made no later than 28 February 2020 by email at nlstiam@nls.ac.in
7. The Oral Hearings are scheduled to take place on 21-24 May 2020 in Bengaluru. Details regarding the time and venue will be provided in due course.



ANNEXURE 3

Excerpt of correspondence between the parties

From: O.M. Jagadish <jagadish@nppc.in>

Sent: 24 September 2019, 12:15:20 PM IST

To: Peter Shultman <p.shultman@abctech.fe>; Dwight Schrute <d.schrute@abctech.fe>;

Mary Neumann <m.neumann@abctech.fe>

Subject: Re: Facial Recognition Technology

Dear Peter,

Thank you for your e-mail.

After discussing within the organisation, we would be happy for you to make arrangements for us to visit your facilities in Durich. We can discuss the details of the contract at the same time as we are facing pressure from all sides to take the necessary steps.

While we are impressed by your track record, we are also conscious that there may be differences between Europe and Filandria (for example in the law enforcement methods to be integrated, etc). It would, therefore, be important for us to see how your product performs in the real world.

Please let us know who we should discuss travel and other logistics with.

Best regards,

O. M. Jagadish

O.M Jagadish

Director – Technology

National Police Procurement Corporation

25, Pali Naki Street

Farare – 40023, Filandria

Phone: +71 1243 787 242

From: Peter Shultman <p.shultman@abctech.fe>

Sent: 23 September 2019, 4:38:30 PM IST

To: O.M. Jagadish <jagadish@nppc.in>

CC: Dwight Schrute <d.schrute@abctech.fe>; Mary Neumann

<m.neumann@abctech.fe>

Subject: Facial Recognition Technology

Dear Mr. Jagadish,

It was great to speak to you about our capabilities and technology.

As I mentioned, we have previously supplied both our software and our hardware to law enforcement agencies across Europe and we are pleased to say that we have received glowing reviews. I will arrange for some of the reviews to be sent to you separately and I would be happy to provide you references.

Based on what we have spoken about, we think the TRC 2645 would be particularly suited for your purpose. It is our latest product and has our latest algorithm integrated which allows the AI to easily identify violent actions and alert the authorities accordingly. We are confident that no other company will be able to provide you such sophisticated technology.

We would be pleased to come over to Filandria at your convenience and arrange a demonstration. Alternatively, we would be delighted to host you at our lab in Zurich so you can tour our facilities as well as see the product in action.

I look forward to hearing back from you and making arrangements accordingly.

Best regards,

Peter Shultman

Peter Shultman | CEO, ABC GmbH

ABC GmbH, Industriestr 20,

68169 Dannheim, Fitzerland

Phone: +49 2345 123 432

Email: p.shultman@abctech.fe

Website: www.abctech.fe

This email and any attachments are confidential and may also be privileged. If you are not the intended recipient, please delete all copies and notify the sender immediately.

From: Lakshmi Chakma <chakma@nppc.in>

Sent: 09 October 2019, 10:15:20 PM IST

To: Dwight Schrute <d.schrute@abc-tech.fe>

CC: Peter Shultman <p.shultman@abc-tech.fe>; Mary Neumann <m.neumann@abc-tech.fe>

Subject: Re: Re: Re: Bank Account Change

Dear Dwight,

I'll action this immediately. For our records can you send a letter from a local chamber of commerce confirming the relationship between ABC Sdn Bhd and ABC GmbH before we can do this?

Best regards,

Lakshmi Chakma

Lakshmi Chakma

Director – Finance

National Police Procurement Corporation

25, Pali Naki Street

Farare – 40023, Filandria

Phone: +71 1243 787 346

From: Dwight Schrute <d.schrute@abc-tech.fe>

Sent: 09 October 2019, 10:15:20 PM IST

To: Lakshmi Chakma <chakma@nppc.in>

CC: Peter Shultman <p.shultman@abc-tech.fe>; Mary Neumann <m.neumann@abc-tech.fe>

Subject: Re: Re: Re: Bank Account Change

Dear Lakshmi,

The process of changing bank accounts is taking longer than expected. But we understand urgency so please make payment to ABC GmbH's subsidiary in Riberia ABC Sdn Bhd. The bank account details of ABC Sdn Bhd are below:

Beneficiary Name: ABC Sdn Bhd

Name of Bank: LMN BANK, Hafeez Ali Road,75300 Jaroka, Riberia.

Account Number: 2598256812

SWIFT Code: LMBBMYKL

Best regards,

Dwight Schrute

Dwight Schrute | CFO, ABC GmBH

ABC GmBH, Industriestr 20,
68169 Dannheim, Fitzerland

From: Lakshmi Chakma <chakma@nppc.in>

Sent: 09 October 2019, 10:15:20 PM IST

To: Jenny Liu <J.liu@abctech.fe>

CC: Peter Shultman <p.shultman@abc-tech.fe>; Dwight Schrute
<d.schrute@abc-tech.fe>; Mary Neumann <m.neumann@abc-tech.fe>

Subject: Re: Bank Account Change

Dear Jenny,

Since payment dates are fast approaching, we will need the changed details at the earliest, and no later than 3 days prior to the due date, please.

Best regards,

Lakshmi Chakma

Lakshmi Chakma

Director – Finance

National Police Procurement Corporation

25, Pali Naki Street

Farare – 40023, Filandria

Phone: +71 1243 787 346

From: Jenny Liu <J.liu@abctech.fe>

Sent: 09 October 2019, 8:15:20 AM IST

To: Lakshmi Chakma <chakma@nppc.in>

CC: Peter Shultman <p.shultman@abc-tech.fe>; Dwight Schrute <d.schrute@abc-tech.fe>; Mary Neumann <m.neumann@abc-tech.fe>

Subject: Bank Account Change

Dear Ms. Chakma,

ABC GmbH is presently changing bank accounts. Please hold all future payments. We provide updated details shortly. Thank you for your patience and sorry for the inconvenience.

Regards,

Jenny Liu

Jenny Liu | Operations Manager, ABC GmbH

ABC GmbH, Industriestr 20,

68169 Dannheim, Fitzerland

This email and any attachments are confidential and may also be privileged. If you are not the intended recipient, please delete all copies and notify the sender immediately.

From: Lakshmi Chakma <chakma@nppc.in>

Sent: 22 October 2019, 5:20:05 PM IST

To: Dwight Schrute <d.schrute@abctech.fe>

Subject: Re: Re: Re: Re: Re: Re: Confirmation of Dispatch

Dear Dwight,

Sorry for the delay. I was on a long flight and still a bit jet-lagged. The UTR Numbers are below:

- 1) 17th October 2019: UTR 1230971531092
- 2) 18th October 2019: UTR 1249865121515

Best regards,

Lakshmi Chakma

Sent from my iPhone

From: Dwight Schrute <d.schrute@abctech.fe>

Sent: 21 October 2019, 1:30:10 PM IST

To: Lakshmi Chakma <chakma@nppc.in>

CC: Peter Shultman <p.shultman@abctech.fe>; Mary Neumann <m.neumann@abctech.fe>

Subject: Re: Re: Re: Re: Re: Confirmation of Dispatch

Dear Ms. Chakma,

I have tried reaching you on your phone and also through Mr. Jagadish. I have not been able to get through to you. Please revert ASAP. This is now very critical.

Best regards,

Dwight Schrute

Dwight Schrute | CFO, ABC GmBH

ABC GmBH, Industriestr 20,

68169 Dannheim, Fitzerland

Phone: +49 2345 123 432

Email: d.schrute@abctech.fe

Website: www.abctech.fe

This email and any attachments are confidential and may also be privileged. If you are not the intended recipient, please delete all copies and notify the sender immediately.

From: Lakshmi Chakma <chakma@nppc.in>
Sent: 21 October 2019, 1:21:12 PM IST
To: Dwight Schrute <d.schrute@abctech.fe>
Subject: Re: Re: Re: Re: Confirmation of Dispatch

Please note that I am presently out of office on vacation and will be returning on 28 October 2019. I will revert to your email at the earliest.

Best regards,
Lakshmi Chakma

From: Dwight Schrute <d.schrute@abctech.fe>
Sent: 21 October 2019, 1:20:10 PM IST
To: Lakshmi Chakma <chakma@nppc.in>
CC: Peter Shultman <p.shultman@abctech.fe>; Mary Neumann <m.neumann@abc-tech.fe>
Subject: Re: Re: Re: Re: Confirmation of Dispatch

Dear Ms. Chakma,

Thank you for your emails. We are unfortunately unable to identify the specific payments. Could you please send us the UTR Numbers to help us with tracking? This is making me a little anxious so would greatly appreciate a prompt response.

Best regards,

Dwight Schrute

Dwight Schrute | CFO, ABC GmBH

ABC GmBH, Industriestr 20,

68169 Dannheim, Fitzerland

Phone: +49 2345 123 432

Email: d.schrute@abctech.fe

Website: www.abctech.fe

This email and any attachments are confidential and may also be privileged. If you are not the intended recipient, please delete all copies and notify the sender immediately.

From: Lakshmi Chakma <chakma@nppc.in>

Sent: 18 October 2019, 19:50:12 PM IST

To: Dwight Schrute <d.schrute@abctech.fe>

Subject: Re: Re: Confirmation of Dispatch

Dear Dwight,

I am heading off on vacation for the next few days so sorting a few things in advance. Earlier today, we transferred the payment for the second tranche of shipment. I know this wasn't due until a few days later but you will, of course, appreciate receiving it earlier than expected! Please confirm receipt.

Best regards,

Lakshmi Chakma

Lakshmi Chakma

Director – Finance

National Police Procurement Corporation

25, Pali Naki Street

Farare – 40023, Filandria

Phone: +71 1243 787 346

From: Lakshmi Chakma <chakma@nppc.in>

Sent: 17 October 2019, 17:15:20 PM IST

To: Dwight Schrute <d.schrute@abctech.fe>

Subject: Re: Confirmation of Dispatch

Dear Dwight,

Enjoy your break! I've made the wire transfer earlier today. Please confirm receipt.

Best regards,

Lakshmi Chakma

Lakshmi Chakma

Director – Finance

National Police Procurement Corporation

25, Pali Naki Street

Farare – 40023, Filandria

Phone: +71 1243 787 346

From: Dwight Schrute <d.schrute@abctech.fe>

Sent: 10 October 2019, 5:15:10 PM IST

To: Lakshmi Chakma <chakma@nppc.in>

CC: Peter Shultman <p.shultman@abctech.fe>;

Mary Neumann <m.neumann@abctech.fe>

Subject: Confirmation of Dispatch

Dear Ms. Chakma,

We confirm the dispatch of the second consignment of 500 Units of the TRC 2645 as per the terms of the Contract. The delivery terms are as usual. These were sent earlier today by air

courier. We will shortly send the relevant airway bill and supporting documents.

We would also like to kindly remind you that € 20 million towards the first tranche of drones that have already been delivered, falls due on 17 October 2019. We trust that all is in order, and we hope to receive payment as per the terms of the Contract.

Please note that I will be away from office on 17 and 18 October 2019, including over the following weekend on vacation with unreliable internet access. Therefore, there may be some delay in responses. During this time, please do not hesitate to reach out to my colleagues Mr. Shultman and/or Ms. Neumann – who you all of course know – in case you need anything at all.

Best regards,

Dwight Schrute

Dwight Schrute | CFO, ABC GmbH

ABC GmbH, Industriestr 20,

68169 Dannheim, Fitzerland

Phone: +49 2345 123 432

Email: d.schrute@abctech.fe

Website: www.abctech.fe

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ANNEXURE 4

Letter from Riberian International Chamber of Commerce and Industry

[LETTERHEAD OF RIBERIAN INTERNATIONAL CHAMBER OF COMMERCE AND
INDUSTRY]

10 October 2019

TO WHOM IT MAY CONCERN

This is to certify that ABC Sdn Bhd is a company incorporated under the laws of Riberia. It is a wholly-owned subsidiary of ABC GmbH and operates the following bank account:

Name: ABC Sdn Bhd

Name of Bank: LMN BANK, Hafeez Ali Road, 75300 Jaroka, Riberia.

Account Number: 2598256812

SWIFT Code: LMBBMYKL

President,

Sd/-

Riberian International Chamber of Commerce and Industry

ANNEXURE 5

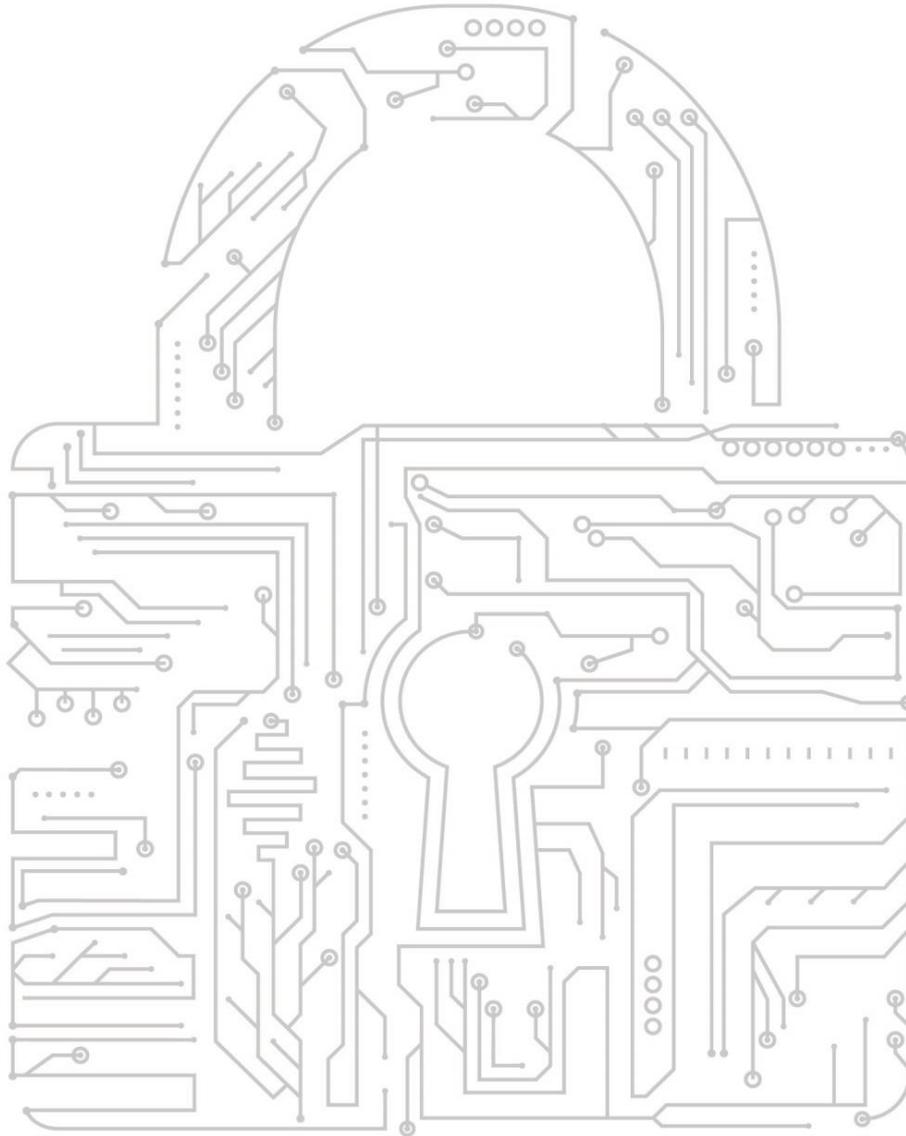
Forensic report of Meloitte Consulting**Summary of ABC GmBH's IT Systems and Policies**

1. ABC GmBH Schiffer has a multi-stage system for mail check.
2. The first stage is a firewall appliance (outer firewall). The system checks all mails for viruses. The antivirus engine appears to have been continuously maintained by the appliance manufacturer.
3. The second stage is an encryption appliance that checks the mail for viruses and spam. The antivirus and antis spam engines appear to have been continuously kept up-to-date by the appliance manufacturer.
4. If the mail is classified as SPAM, it is either discarded when a corresponding spam level is reached or if the spam level is below the threshold, the subject of the mail ****SPAM**** is added and it is allowed through. The spam engine dictates the criteria for increasing the spam level. We can only set the threshold values.
5. The third stage is a firewall appliance (internal firewall). There, the mails are checked for viruses, worms as well as other malware and SPAM. The corresponding engines have been kept continuously up-to-date by the manufacturer.
6. Mails containing viruses, worms, or other malware are discarded.
7. Mails classified as SPAM are quarantined. This includes both the mails that were detected as spam by the firewall appliance itself and the mails marked ****SPAM**** by the encryption appliance. In both cases, ****SPAM**** is in the subject.
 - a. - marked as spam by the encryption appliance:
 - b. - marked as spam by the firewall appliance:
8. Mail accounts are not validated. However, it is checked whether the sending mail server is also the one for which it is sent (keywords: HELO filter, RDNS check, SPF check).
9. Attachments are checked like mails. Mails with traceable files attached to them or with encrypted attachments are quarantined but cannot be shared.

Summary of Key Findings

1. Phishing emails received on J.Liu@abctech.fe (Jenny Liu) from suspicious email addresses and external IP addresses.
2. Potential compromise and unauthorized access of Jenny Liu's O365 account from IP addresses belonging to various physical locations
3. Unauthorized rule creation/modification on Jenny Liu's O365 Account (automatic deletion of all emails received from domain name "nppc.in").

4. One email sent to chakma@nppc.in and potentially spoofed email accounts in CC (p.shultman@abc-tech.fe, d.schrute@abc-tech.fe, and m.neumann@abc-tech.fe) impersonating as employees of ABC GmbH with spoofed domain (abc-tech.fe).
5. Emails sent from spoofed domain (abc-tech.fe) did not emanate from or pass through ABC GmbH's servers or infrastructure.



ANNEXURE 6

Excerpt of the Filandria Public Procurement Act

[....]

6. *Procurement other than by tender prohibited* – No government agency shall procure goods or services except by inviting tenders for supply.

7. *Exceptions to applicability*- The provisions of this Act do not apply to the procurement of goods and services,-
 - (a) During a period of natural calamity or emergency;
 - (b) Where the goods or services are available from a single source or where a particular supplier or contractor has exclusive rights in respect of the goods or services or construction work and no reasonable alternatives or substitutes exist;
 - (c) Where the procuring entity having procured goods, services or technology from a supplier or contractor determines that additional supplies must be procured from the same supplier or contractor for reasons of standardization and compatibility with the existing goods, service or technology; or
 - (d) Where the value of the goods or services to be procured does not exceed € 50,000.

