

**WEST AFRICAN REGION DRAFT OF APPLICANT ARGUMENT**

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**14TH JANUARY 2011**

Six issues are identified by the applicant in the compromis as follows:

**Issue No 1**

***1.0 Whether the Court has jurisdiction to entertain this matter between the Kingdom of Cyborgs and Mainland?***

1.1 The jurisdiction of the court is founded mainly on the consent of parties. Since both the Kingdom of Cyborgs and Mainland agreed to refer their disputes to the Court for determination neither of the parties can legally contest the jurisdiction of the Court

**Issue No 2**

***2.0 Whether Mainland is legally entitled to demand the return of Cisland from Cyborgs?***

2.1 The contiguity of Cisland to Mainland and other facts enumerated in paragraph 4 of the compromis conferred inchoate title to Cisland on Mainland during the colonization of both Mainland and Cisland by the Kingdom of Cyborgs.

2.2 Facts contained in paragraph 4 of the compromis renders Cisland a provisional settlement of Mainland under extant rule of international law . Full title to Cisland reverts back to Mainland upon the independence of the latter. This fact is borne out by Mainland's repeated requests for the return of Cisland.

2.3 Mainland is thus legally entitled to demand the return of Cisland

**Issue No 3**

***3.0 Whether the occupation of Cisland by the respondent is illegal under international law?***

3.1 The occupation of Cisland by Cyborgs is a violation of the right to self-determination of the inhabitants of Cisland as the mass expulsion of the Cislanders was done by Cyborgs without the consent or consultation of the Islanders.

3.2 The mass expulsion/eviction of the Cislanders by Cyborg is a violation of the rights to housing, property and health of the Cislanders. The eviction also violates the rights of children in the UN Convention on the Rights of the Child and is thus against rules of conventional international law.

3.3 The mass expulsion/eviction is contrary to the obligation of Cyborgs under article 11 (1) of the ICESCR in regard to forced eviction and is consequently a violation of conventional international law

3.4 The occupation of Cisland by Cyborg is therefore illegal under international law

#### **Issue No 4**

##### ***4.0 Whether Cyborg's occupation of Cisland is a grave threat to regional peace, security and friendly relations between states?***

4.1 The occupation of Cisland by Cyborg is to facilitate use of military force against alleged terrorist State of Puma. The use of force by Cyborg is against the dictates of article 2 (1) of the UN Charter and does not come within the ambit of any of the exceptions under the UN Charter or customary international law rules.

4.2 There is also no nexus between Cisland and its inhabitants and the danger posed to Cyborg by Puma to justify the occupation of Cisland by Cyborg or the mass expulsion of the Cislanders in breach of the rules of international law

4.3 The occupation of Cisland, a contiguous territory to Mainland composing of descendants of Mainland, by Cyborg for purposes of launching attacks on Puma will send wrong signals to Puma and open Mainland up to retaliatory attacks from Puma who is geographically closer to Mainland. This will strain relations between Puma and Mainland and expose the region to instability.

#### **Issue No 5**

##### ***5.0 Whether the revolutionary government of Mainland is a legally recognized government?***

5.1 Under extant rules of international law, a sovereign state is entitled to choose its political system. Whether this be by the ballot or bullets is no concern of international law. What the law requires is that a revolutionary government claiming sovereignty over a territory exercise effective control over the territory claimed. There is no doubt in this case that the revolutionary government in Mainland is exercising effective control in the territory.

5.2 Furthermore, questions of changes of government are an internal affair which is regarded as an exercise in self-determination. It is not the concern of any other Nation-State. The revolutionary government of Mainland is legally recognized under the law

#### **Issue No 6**

##### ***6.0 Whether the treaty of 20<sup>th</sup> December, 2006 between the Kingdom of Cyborgs and Mianland is binding on the new revolutionary government in Mainland?***

6.1 The treaty by its very nature is contrary to customary international law rules, particularly the basic principles of self determination and the promotion of international peace and security as codified under the UN Charter and the UN Declaration of the Principles of Friendly Relations. The treaty also violates Article 28 of the Vienna Convention on the Law of Treaties and is for these reasons void.

6.2 The manner in which consent was given by the deposed President also constitutes a manifest violation of an internal rule of fundamental importance; the Constitution of the Republic of Mainland in line with Article 46 (2) of the Vienna Convention on the Law of Treaties. This is acknowledged by the International Court of Justice in the Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria, Equitoial Guinea Intervening.

**WEST AFRICAN REGION DRAFT LIST OF APPLICANT’S AUTHORITIES**  
**OLADIMEJI OJO – JNR COUNSEL AND OLAOLUWA ONI – SNR COUNSEL**  
**14TH JANUARY 2011**

**LIST OF CASES**

*International*

1. Corfu Channel (United Kingdom v. Albania) Preliminary Objection 1947- 1948 ICJ Rep. 27
2. Island of Palmas Arbitration (Netherlands v USA) 1928 RIAA 829
3. Tinoco Arbitration (Great Britain v Costa Rica) 1923 RIAA 369
4. East Timor (Portugal v. Australia) 1 ICJ Rep. 1995
5. Nicaragua v. USA (Merits) 1986 ICJ Rep. 14
6. Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria ICJ Rep. 2002

*Domestic (South African Constitutional Court)*

7. *Government of the Republic of South Africa v. Grootboom* 2000 (11) BCLR 1169 (CC)
8. *Port Elizabeth Municipality v. Various Occupiers* 2004 (12) BCLR 1268 (CC)

**LIST OF INTERNATIONAL INSTRUMENTS**

9. International Economic Social and Cultural Rights
10. General Assembly Resolution 2625 (XXV) 1970: Declaration on Friendly Relation between States

**LIST OF BOOKS AND ARTICLES**

11. Dugard J, *International Law: A South African Perspective (3<sup>rd</sup> Edition) 2005, Juta & Co Ltd*
12. Nawaz M K ‘The meaning and range of the principle of self determination’ 1965 *Duke LJ* 82