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## Crab case

**Issue1**

**A sales and purchase agreement for 10,000 Nego crabs was effectively concluded between Red and Blue, and Blue cannot cancel the Agreement.**

**I. A sale and purchase agreement that Blue buys 10,000 Nego crabs ("Crab agreement") was effectively concluded between Red Corp. ("Red") and Blue, Inc. ("Blue") on March 4, 2019. The unit price was US$200, which was determined by the price information in the account management system.**

1. Red accepted the offer from Blue.

In this case, the offer was Blue's placement of the order for 10,000 Nego crabs through "Smart Blue" AI system which handles all operations relating to ordering at about 1 am on March 4, 2019 (¶14). And the acceptance of that offer was Red's shipment of Nego crabs at about 5 am on March 4, 2019(¶14). Therefore, Red accepted the offer from Blue for sales of 10,000 Nego crabs and the "Crab agreement" was effectively concluded.

2. The unit price of Nego crab in the "Crab agreement" was US$200. It is because the unit price was determined by the price information in **the accounting management system**.

2.1. In 2012, Red and Blue agreed that they would develop systems for sharing information in introducing RB Link. In response, Red developed a system with Blue that manages and provides information such as prices for products of the "Global Kitchen" and relates to the process orders from Blue ("Accounting System" ¶12).

2.2. Since the introduction of RB Link, Blue entered the order from the customer, based on the price displayed on the system that manages and provides information such as price, and placed an order with Red. Therefore, after the start of RB link operation in 2012, the sales price of the product has been determined by the price information provided to Blue from the system that manages the said information of Red.

2.3. In 2018, Blue developed and introduced "Smart Blue" AI system, inventory management and order management system that utilizes AI. "Smart Blue" predicts orders from customers based on information such as market trends provided by the information system related to the newly added information sharing, and places orders through the accounting system. The accounting system is a system related to the ordering process, including a system for providing information such as a price and a system for processing an order from Blue, developed at the time of introducing RB link. That is, the accounting system is the same system as the ordering system after the introduction of the RB link. Therefore, even after the introduction of Smart Blue, the process for placing an order through an accounting system that has traditionally handled the sales price of the product has not changed.

2.4. Thus, the price is determined by the sales price in the accounting system, similar to the period when the order was placed through RB link.

2.5. In this case, according to the accounting system, the unit price of Nego crab was determined at US$200. Therefore, the "Crab agreement" was effectively concluded that Blue would buy 10,000 Nego crabs for 2 million (unit price is US$200) from Red.

## II. The unit price of Nego crab in the "Crab agreement" is not US$50 as Blue claims.

**Blue argues the unit price of Nego crab should be US$50 based on the price information displayed on the information management system (¶16). However, the price on the information management system is only the information that "Smart Blue" uses for forecasting and the unit price of Nego crab was US$200, which is the price on the account management system.**

The information management system is a new system added in 2018, in addition to the accounting system used since the introduction of the RB link in 2012, to obtain information for Smart Blue to forecast orders from customers. Besides, it is clear that the introduction of the information management system does not affect the ordering process used in 2012, because the information management system is independent of the account management system (¶12, Ex.7). Considering the facts above, the information handled by the information management system is only used when "Smart Blue" predicts orders from its customers and the price is never determined by the price information of the information management system.

## III. Blue cannot cancel the "Agreement" based on Blue's mistake.

Blue might argue Blue can cancel the "Crab agreement" based on mistake stipulated in UNIDROIT Principles of International Commercial Contracts 2016 ("UPICC") Art. 3.2.2. However, such an argument should be dismissed. This is because Blue's mistake does not satisfy the requirements to avoid the contracts stipulated in UPICC Art. 3.2.2(1). Even if Blue's mistake satisfies the requirements to avoid the contracts, Blue cannot avoid the "Crab agreement" based on UPICC Art. 3.2.2(2).

1. Blue's mistake does not satisfy the requirements to avoid the "Crab agreement."

UPICC Art. 3.2.2(1) stipulates the requirements to avoid the contracts by mistake

and stipulates the mistaken party can avoid the contract when the mistake was of such importance and the mistake meets to one of the three requirements in UPICC Art. 3.2.2(1)(a).

In this case, Blue might argue that the mistake was an erroneous assumption which was that Blue believed the following information, (i)there was a large catch of Nego crabs, (ii)the market price of Nego crab has dropped, and (iii)Red's sales price of Nego crab is US$50 (the "False information") provided by Red's system to "Smart Blue" was accurate. Red admits that Blue made the mistake which was of such importance because Red and Blue have the same view that if the "False information" had not been provided to "Smart Blue"'s AI, Blue would not have ordered 10,000 Nego crabs (¶15).

1.1. However, Blue's mistake satisfies none of the three requirements stipulated in UPICC Art. 3.2.2(1)(a).

1.2. Blue might argue Blue can cancel the "Crab agreement" because this satisfies UPICC Art. 3.2.2(1)(a) which stipulates the case where the mistaken party can avoid. However, such an argument should be dismissed. This is because the mistake made by Blue was caused by Blue itself. In this case, the erroneous information was the "False information" entered by unauthorized access by an unknown party. This occurred because Blue sent the E-mail which has the attachment infected by a virus (¶15). Thus, it was not Red, but Red to cause the mistake. Therefore, Blue's argument that Red caused the mistake should be dismissed.

1.3. Blue might argue that Red knew or ought to have known of the mistake.
However, there is no way that Red knew Blue's mistake at about 5 am on March 4 because it was at 8 am on March 4 when Red noticed there was the unauthorized access and some outsiders entered the "False information."
In addition, Red was not able to notice that Blue's mistake occurred in the forecasting order system. This is because (i)the order placed at a regular price and can be considered as a normal transaction, (ii)Red cannot distinguish whether the order was based on customer's orders or an AI's forecasts (¶11), that can be assumed that the large quantity customer purchases.
Therefore, Blue's mistake does not satisfy the requirements to avoid the contracts stipulated in UPICC 3.2.2(1) and Blue cannot avoid the "Crab agreement".

2. Even if the requirements stipulated in UPICC Art. 3.2.2(1) are satisfied, Blue cannot argue to avoid the "Crab agreement" by mistake because this case satisfies UPICC Art.3.2.2(2)(b), which stipulates the case that the mistaken party assume the risk of mistake. Therefore, the claim for the avoidance of the "Crab agreement" by mistake should be dismissed.

2.1. Blue, which developed and introduced "Smart Blue", undertook the risk that Blue places orders based on erroneous information and automatically placing orders.

2.2. In this case, Red and Blue agreed that Red is not responsible for the accuracy of information provided by third parties, Blue could have undertaken the risk of erroneous information. Although Blue expected the case in which the

information "Smart Blue" uses for forecasting orders might be incorrect, for example, a program that detects the enormous amount of orders and trading price placed by "Smart Blue", or a program that checks the information in the accounting management system and the information management system, and eliminates incorrect information. In this way, despite that Blue had "Smart Blue" to handle all processing related to ordering and contracting with Red for simplifying the process of transaction, Blue undertook and risks that might arise from forecasting orders based on incorrect information.

2.3. Therefore, Blue applies to a party who cannot argue for avoidance by mistake stipulated in UPICC Art. 3.2.2(2)(b), and Blue cannot avoid the "Crab agreement."

**Issue2**

**There is no facts and legal basis that Blue can reduce the amount of payment to be paid to Red.**

**I. Red did not breach an obligation to provide the information under Exhibit 7.**

1. Blue might argue that Red breached its obligation to provide the information under Exhibit 7, and set-off its obligation to pay US$2 million against Red's obligation to pay for the damages. However, such an argument should be dismissed. This is because Red is not responsible for the accuracy of information provided by third parties.

1.1. Based on Exhibit 7, Red has an obligation to provide Blue information, for example, information concerning weather, production volume and market prices of products in Negoland, for "Smart Blue" to forecast orders from customers. However, Red and Blue agreed that Red is not responsible for the accuracy of information provided by third parties (Exhibit 7, E-mails on November 10 and 17, 2019). Thus, Red did not owe an obligation to provide accurate information provided by third parties.

1.2. In this case, the false information was provided by a hacker through the unauthorized access (¶15). Therefore, Red is not responsible for the inaccuracy of the information, and Red did not breach its obligation to provide information based on Exhibit 7.

**II. Even if Red breached the obligation to provide the information based on Exhibit 7, Blue cannot argue Red's non-performance since Blue interfered Red's performance of its obligations.**

1. UPICC Art. 7.1.2 stipulates "A party may not rely on the non-performance of the other party to the extent that such non-performance was caused by the first party's act or omission or by another event for which the first party bears the risk."
2. Blue may not rely on Red's non-performance because Red's non-performance was caused by Blue sending the E-mail infected by a virus under UPICC Art. 7.1.2. This

is because Blue interfered Red's performance of its obligation to provide the information by sending the E-mail infected by a virus.

3. In this case, Blue sent the E-mail infected by a virus and the E-mail made Red's system become accessible to the hacker. So that the data was altered and the "False information" was sent to Blue. Given the fact above, it is obvious that Blue caused Red to breach its obligation to provide the information.
4. Therefore, Blue cannot argue that Blue can reduce the amount to be paid based on Red's non-performance of its obligations.

**III. Even if there is damage due to non-performance of Red, there is no causal relationship between Red's non-performance and the damages, and Blue has no right to claim damages.**

1. Blue might argue that Red's non-performance incurred US$2 million regarding the "Crab agreement" to Red. However, such an argument should be dismissed. This is because even if Red incurred the damages to Blue, there is no causal relationship between Red's non-performance and the damages of Blue. The reason why Blue suffered damages is Blue did not take the necessary measures to prepare for the risk that erroneous information would be provided by Red.
2. In addition, Blue could have prepared for preventing erroneous information. However, Blue did not take appropriate measures to prevent the case in which "Smart Blue" was operated without being managed and judged based on erroneous information such as confirming the contents of the order or cancellation of orders.
3. For these reasons above, there is no damage due to Red's non-performance. In addition, even if there is damage due to Red's non-performance, because there is no causal relationship between Red's non-performance and the damages of Blue, Blue cannot claim for damages to Red.

**Therefore, there is no fact that Red breached its obligation to provide the information based on Exhibit 7. Even if Red breached its obligation, Blue cannot argue Red's non-performance. Also, Red is not obligated to pay for damages even if Red is not exempted because Red's non-performance does not meet the requirements for damages.**

As a result, set-off should be dismissed because Red does not have liabilities for damages and there is no fact that Blue can reduce the amount to be paid for the same reason.

**Issue3**

**Red does not have an obligation to pay US$500,000 to Blue for the sale of Nego crabs to Green Corp. ("Green").**

Regardless of who owns Nego crabs, Red is not obligated to bear the full amount of shipping costs and customs duties of US$500,000 (the "Costs") required for the sale to Green. This is because Red and Blue agreed only to have another discussion regarding the distribution of costs and losses, and there was no agreement that Red would pay all costs (¶17).

**I. Blue owns Nego crabs so that Blue has an obligation to pay US$500,000 for the sales of Nego crabs to Green. There are reasons as follows:**

1. Red and Blue agreed to discuss the cost and loss burden later. However, there was no specific agreement that Red would pay the "Costs" required by Blue for the contract to resale Nego crabs with Green.

1.1. Red and Blue discussed in the telephone meeting about whether the "Crab agreement" was concluded and who owns Nego crabs, but no agreement was reached on that point (¶17). However, Red and Blue agreed that the costs and losses related to Nego crabs will be resolved later (¶17).

1.2. If the "Crab agreement" is effectively concluded, therefore, in this case, Blue as an owner of Nego crabs contracted with Green alone to transport Nego crabs to Green. Because there is no particular agreement between Red and Blue that Red shall pay shipping costs and customs duties, Blue as an owner, be responsible for all payments regarding Nego crabs.

1.3. In this case, because the "Crab agreement" was concluded between Red and Blue, Blue owns Nego crabs. Therefore, Blue should bear the "Costs" of US$500,000 for the sale of Nego crabs which Blue owns to Green.

**II. Even if Red owns Nego crabs, Red is not obligated to pay all costs customs duties and customs duties for the sales of Nego crabs to Green.**

2. Even if Red is obligated to pay some amount of "Costs," the amount to be paid by Red is either US$200,000 or US$250,000.

2.1. This is because, even if Red requested Blue to sell Nego crabs to Green, the amount to be paid by Red should be limited to a reasonable amount of cost. At first, Blue expected that shipping costs and customs duties were US$200,000. After concluding the contract with Green, there was a sudden increase in the fares for air transportation and the additional customs duties. As a result, the cost for the sale paid by Blue increased up to US$500,000. In this case, if Blue had expected that Red would bear the cost for the sales of Nego crabs to Green, Blue should have informed about the increase in costs to Red. However, Blue sold Nego crabs to Green without any notice or explanation to Red about the increase in the costs. So that it is unreasonable that Blue which did not notify about an increase in costs to Red would charge the significantly heavy "Costs" to Red. Therefore, even if Red owns Nego crabs, the amount to be paid by Red is limited to a reasonable amount and US$200,000 which is before the increase in costs should be the amount to be paid by Red.

2.2. Even if Blue is not obligated to pay the full amount of US$500,000, the "Costs" should be distributed equally between Red and Blue. This is because Red and Blue had the same view that Nego crabs were fresh products and thus to be

purchased quickly by a purchaser at the highest possible price. Red and Blue cooperated to sell Nego Crabs quickly and each contributed to the sale of Nego Crabs to Green. In particular, Red introduced Green as a purchaser for Nego crabs and Blue undertook a contract procedure to sell Nego crabs to Green. Therefore, given the fact that Red and Blue cooperated to sell Nego Crabs quickly and each contributed to the sale of Nego Crabs to Green, the "Costs" should be equally distributed between Red and Blue.

## Blue Hot Case

**Red's submission**

A. Blue, Inc. shall not supply "Blue Hot" series ("Blue Hot") to any third party that sells them in Negoland.

B. Blue, Inc. to pay US $400,000 to Red Corp.

**Issue 1**

**Blue has an obligation under Art. 14.3 of the JVA and breached its obligation. Blue also has an obligation under Art. 14.1 of the JVA and breached its obligation.**

**I. Blue has an obligation under Art. 14.3 of the JVA but breached its obligation.**

(1) Blue has an obligation under Art. 14.3 of the JVA.

1. The parties entered into the JVA on December 15, 2014, and set up Yellow Corp., Ltd. ("Yellow") as a joint venture company in Negoland (¶20, Exhibit 10). Art.14.3 of the JVA stipulates, "Neither party shall carry on nor be engaged in any business that competes with the business of Yellow during the period of this Agreement."
2. "Any business that competes with Yellow" is (i) to sell instant foods similar to those produced by Yellow and (ii) a business that decreases the profit of Yellow. There are two reasons.
   - 2.1. First, the purpose of the article is to prevent a decrease in the profit of Yellow.
   - 2.2. Second, Yellow was established to manufacture instant foods in Negoland and sell instant foods in Negoland and other countries (WITNESSETH of the JVA, ¶21).
3. Thus, Blue is prohibited to sell instant foods which are similar to Yellow's instant foods and which would decrease the profit of Yellow.
4. Moreover, Art. 14.3 of the JVA prohibits Blue from selling instant foods to a third party that would sell those foods in Negoland and the other countries where Yellow's instant foods are sold. This is because if Art. 14.3 of the JVA does not prohibit to sell instant foods to a third party, Blue could circumvent applying Art. 14.3 of the JVA. This is against the purpose to prevent the decrease of profit of Yellow.
5. Therefore, Blue has an obligation not to sell instant foods which are similar to Yellow's instant foods and which would decrease the profit of Yellow.

(2) Blue breached its obligation under Art. 14.3 of the JVA.

6. As explained above, Blue has an obligation not to sell instant foods that are similar to Yellow's instant foods and not to decrease profit of Yellow under Art. 14.3 of the JVA.

However, Blue breached this obligation by selling Blue Hot to Brown. There are three reasons.

6.1. Blue Hot is similar to Yellow Quick series (“Yellow Quick”) because both are tasty foods that are easy and quick (Exhibit 12).

6.2. Blue had known Brown would sell Blue Hot in Negoland since Blue have started the transaction with Brown. However, Blue did not set a clause that restricts the area where Brown could sell Blue Hot (Exhibit 13 February 8, 2019).

6.3. As a result of selling Blue Hot in Negoland, the amount of profit of Yellow decreased in Negoland (¶24, Exhibit 12 Expert Opinion which the parties agreed on the reliability).

7. Thus, Blue has an obligation not to sell similar instant foods which decreases the profit of Yellow under Art.14.3 of the JVA.

**II. Blue has an obligation under Art.14.1 of the JVA but breached its obligation.**

(1) Blue has an obligation under Art.14.1 of the JVA.

8. Art.14.1 of the JVA stipulates, “Both parties shall use their best efforts and shall cooperate with each other in good faith to make the business of Yellow to be successful.” “To make the business of Yellow to be successful” means to increase Yellow’s profit.

9. Therefore, Blue has an obligation to use its best efforts and shall cooperate with Red in good faith to increase the profit of Yellow.

10. As a part of the obligation, for instance, Blue should take measures to avoid negative impact when Blue sells new products or should have a discussion with Red before selling similar instant foods that compete with the Yellow’s instant foods in Negoland.

(2) Blue breached its obligation under Art.14.1 of the JVA.

11. As explained above, Blue should take measures to avoid negative impact when Blue sell new products or have a discussion with Red before selling Blue Hot in Negoland under Art.14.3 of the JVA. However, Blue breached its obligation. There are three reasons.

11.1. Blue should have a discussion with Red before selling similar instant foods in Negoland since Blue started the transaction with Brown (Exhibit 13 February 8, 2019). However, Blue did not have any discussion.

11.2. Blue should have restricted the area where Brown could sell Blue Hot when Blue concluded a sales contract between Brown. However, Blue did not make such restrictions.

11.3. As a result of selling Blue Hot in Negoland, the amount of sales of Yellow Quick decreased in Negoland (¶24, Exhibit 12 Expert Opinion which the parties agreed on the reliability).

12. Therefore, Blue breached its obligation under Art. 14.1 of the JVA.

**Issue 2**

**The Arbitral Tribunal should render an arbitration award that Blue shall not supply Blue Hot to any third party that sells them in Negoland.**

1. Blue has its obligation not to decrease the profit of Yellow by selling instant foods which are similar to Yellow’s instant foods under Art.14.3 of the JVA. Blue also has an obligation to use Blue’s best effort to increase the profit of Yellow under Art.14.1. of the JVA.

2. Blue's selling Blue Hot to third parties that would sell it in Negoland is a breach of the obligation under Art. 14.1 and Art. 14.3 of the JVA.
3. This is because the sales of Yellow Quick would continue to decrease by half (Exhibit 12).
4. Thus, if Blue continues selling Blue Hot, the profit of Yellow decreases and the business of Yellow would continue not to be "successful". Therefore, Blue shall stop providing Blue Hot to third parties which will sell Blue Hot in Negoland.
5. The Arbitral Tribunal should render an arbitral award that Blue shall not supply Blue Hot to any third party that sells them in Negoland (UPICC Art. 7.2.2).
6. UPICC Art. 7.2.2 stipulates exceptions when the right to require performance is not available. However, the exception does not apply to this case.
   6.1. For example, Blue's performance is not unreasonably burdensome. (UPICC Art. 7.2.2.(b))[1]

   The Arbitral award should prohibit Blue from sale Blue Hot. A commentator points out whether it is unreasonably burdensome or not should be evaluated by comparison between the economic cost which the debtor sufferers and the benefit which creditors earn.

   In this case, the economic cost that Blue will suffer not burdensome. This is because Blue is a big company that engages in many businesses. On the other hand, Yellow's instant foods business is the only business that Yellow has. Thus, the sales of Blue Hot sufficiently affect the sales of Yellow Quick.
7. Thus, the exceptions stipulated in UPICC Art.7.2.2 do not apply. Therefore, the Arbitral Tribunal shall render an arbitral award that Blue shall not supply Blue Hot to any third party that sells them in Negoland.

**Issue 3**

**There was a breach of obligation on the part of Blue in Issue 1. Blue owes the obligation to pay US $400,000 for damages to Red on the ground that the profit of Yellow in Negoland decreased in 2018.**

I. Red is entitled to claim for damages.

Due to Blue's non-performance, Blue suffered a loss of US $400,000. Red is entitled to claim for damages under UPICC Art.7.4.2~Art.7.4.4 because there were (a)causal relationship, (b)foreseeability and (c)certainty of harm.

1.1. Causal relationship

Blue sold Blue Hot at the stores of Brown in Negoland. As a result, the profit of Yellow Quick decreased by half (Exhibit 12). If Brown had not sold Blue Hot in Negoland, the sales of Yellow Quick would not have decreased (Exhibit 12 and the list). Therefore, there is a causal relationship.

1.2. Foreseeability

UPICC Art.7.4.4 stipulates, "The non-performing party is liable only for harm which it foresaw or could reasonably have foreseen at the time of conclusion of the contract as being likely to result from its non-performance." In this case, Blue Hot which is instant

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[1] COMMENTARY ON THE UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS (PICC) SECOND EDITION, EDITED BY STEFAN VOGENAUER, OXFORD, 2014. Page 893

food which competes with Yellow. Blue could foresee the profit of Yellow would decrease if Blue sold Blue Hot which is similar instant foods compared with Yellow when Blue concluded the JVA.

1.3. Certainty of harm

The parties do not dispute that Red's damage is US$400,000 (Exhibit 14).

2. Blue might argue that Red is entitled to claim only for damages related to beef stew and aqua pazza. However, such argument shall be dismissed. There are two reasons.

2.1. The decrease of sales of Yellow Quick was caused by the Blue Hot as a whole (¶24, Exhibit 12).

2.2. There are quite a few people in Negoland who think that "Blue Hot" is better than "Yellow Quick" in that "Blue Hot" is a new product that allows people to enjoy tasty food easily and quickly (Exhibit 12).

Therefore, Red is entitled to claim for damages to Blue.

## The Third-Party Funding

**The petition by Blue, which requests that the Arbitral Tribunal should order Red to disclose the contents of the third-party funding agreement between Red and the fund, should be denied.**

Blue requests that the Arbitral Tribunal should order Red to disclose the contents of the third-party funding agreement between Red and the fund ("TPF Agreement"). However, such a petition should be denied. This is because Red has no obligation to disclose the identity of the other party and the contents of the TPF Agreement. Even if Red has an obligation to disclose some information regarding the TPF Agreement, it should not cover the contents, only the identity of the other party.

1. Red has no obligation to disclose the identity of the other party and the contents of the TPF Agreement. There are three reasons.

1.1. The applicable procedure rules and the applicable law of this arbitration do not stipulate parties' obligation to disclose information about third-party funding.

The applicable procedure rules of this arbitration is the UNCITRAL Arbitration Rules. The applicable law is the Arbitration Act in Japan. Both of them stipulate **arbitrator's** disclosure obligation on circumstances and facts likely to give rise to justifiable doubts as to the arbitrator's impartiality or independence (UNCITRAL Arbitration Rules Art. 11, Arbitration Act Art. 18.4). In contrast, however, neither has any provisions that stipulate **parties'** disclosure obligation.

1.2. There is neither a general obligation to disclose the identity of the funder nor such practices.

According to one of the Japanese leading experts on arbitration law, parties of the arbitration do not owe the general obligation to disclose the identity of the funder, and there are no such practices.[2]

[2] Nakamura, Tatsuya "Third Party Funding and Arbitral Proceedings" Kokushikan Law Review. Vol.50, p.5 (2017)

1.3. The disclosure of the identity of the other party and the contents of the TPF Agreement would cause a significant burden and disadvantage to Red.

Under the TPF Agreement, Red is prohibited from disclosing the identity of the other party and the contents of the TPF Agreement to any third party (see Exhibit 16). If Red discloses the identity of the other party or/and the content of the TPF agreement, Red will be forced to breach the TPF Agreement and would be claimed for damages. This must be a significant burden and disadvantages to Red.

2. Even if Red has an obligation to disclose some information regarding the TPF Agreement, considering the purpose of Blue's petition, it should be sufficient to get the information of the other party's identity. The contents of the TPF Agreement should not be disclosed. There are four reasons.

2.1. Requesting disclosure of the contents of the TPF Agreement is excessive for the purpose of Blue's petition.

The purpose of Blue's petition is to clarify the relationship between the fund and the arbitrator, and determine whether Blue needs to take procedures to challenge the arbitrator (see Exhibit 15). In order to achieve these purposes, it is sufficient only to know the identity of the other party of the TPF Agreement.

2.2. According to the survey to international arbitration practitioners, 71% of respondents indicated that the mandatory disclosure of the contents of the funding arrangements was overplus. In addition, some interviewees commented that such disclosure would be irrelevant to the effective management of the arbitral process.[3]

2.3. In international arbitration practice, it is extremely rare that arbitral tribunal orders disclosure of the contents of the funding arrangement for the purposes of checking arbitrator's potential conflicts of interest. [4]

2.4. Even under the arbitration rules in Singapore[5] and Hong Kong,[6] which has the express provisions that stipulate parties' disclosure obligation regarding the third-party funding, the contents of the funding arrangement is not included in the mandatory disclosure.

3. Therefore, the petition by Blue, which requests that the Arbitral Tribunal should order Red to disclose the contents of the TPF Agreement, should be denied.

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[3] Queen Mary, University of London and White & Case (2015). "2015 International Arbitration Survey: Improvements and Innovations in International Arbitration"

[4] International Council for Commercial Arbitration (2018). "Report of the ICCA-Queen Mary Task Force on third-party funding in International Arbitration" p.106

[5] the Legal Profession (Professional Conduct) Rules 2015, Rule 49A

[6] the Arbitration and Mediation Legislation, Article 98U