

18TH D.M. HARISH MEMORIAL GOVERNMENT LAW COLLEGE
INTERNATIONAL MOOT COURT COMPETITION

9TH - 12TH FEBRUARY, 2017



HOSTED BY:

Government Law College

IN ASSOCIATION WITH:

D.M.HARISH FOUNDATION

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

BETWEEN THE REPUBLIC OF PATRIAM (APPLICANT)

AND THE REPUBLIC OF GENTEM (RESPONDENT)

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE

THE DIFFERENCES BETWEEN THE PARTIES

CONCERNING THE COLLECTION, ACCESS AND USE OF BIG DATA,

MARKET MANIPULATION AND OTHER MATTERS

Jointly notified to the Court on 5 June, 2016

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

ENTRE LA RÉPUBLIQUE DE PATRIAM (DEMANDERESSE)

ET LA RÉPUBLIQUE DE GENTEM (DÉFENDEUR)

SOU MIS À LA COUR INTERNATIONALE DE JUSTICE

LES DIFFÉRENCES ENTRE LES PARTIES

AU SUJET LA COLLECTE, ACCÈS ET UTILISATION DU BIG DATA,

MANIPULATION DU MARCHÉ ET AUTRES QUESTIONS

Conjointement à la Cour le 5 Juin, 2016

JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT:
The Hague, 5 June 2016

On behalf of the Republic of Patriam (the “**Applicant**”) and the Republic of Gentem (the “**Respondent**”), in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour to transmit to you an original of the Compromis for submission to the International Court of Justice of the differences between the Applicant and the Respondent concerning the collection, access and use of big data, market manipulation and other matters, signed in The Hague, The Netherlands, on the Fifth Day of June in the Year Two Thousand Sixteen.

**Ambassador of the Republic of Patriam to
The Kingdom of The Netherlands**

**Ambassador of the Republic of Gentem to
The Kingdom of The Netherlands**

COMPROMIS
SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY THE
APPLICANT
AND RESPONDENT
ON THE DIFFERENCES BETWEEN THEM CONCERNING
COLLECTION, ACCESS AND USE OF BIG DATA,
MARKET MANIPULATION AND OTHER MATTERS

The Republic of Patriam and the Republic of Gentem,

Considering that differences have arisen between them concerning the collection, access and use of big data, market manipulation and other matters;

Recognising that the Parties concerned have been unable to settle these differences by negotiation;

Desiring further to define the issues to be submitted to the International Court of Justice (hereinafter referred to as the "**Court**") for settling this dispute;

In furtherance thereof the Parties have concluded the following Compromis:

Article 1

The Parties submit the questions contained in the Compromis (together with Addendum, Annex, Corrections and Clarifications to follow) to the Court pursuant to Article 40(1) of the Statute of the Court.

Article 2

It is agreed by the Parties that The Republic of Patriam shall act as Applicant and The Republic of Gentem as Respondent, but such agreement is without prejudice to any question of the burden of proof.

Article 3

(a) The Court is requested to decide the Case on the basis of the rules and principles of international law, including any applicable treaties.

(b) The Court is also requested to determine the legal consequences, including the rights and obligations of the Parties, arising from its Judgment on the questions presented in the Case.

Article 4

(a) Procedures shall be regulated in accordance with the applicable provisions of the Official Rules of the 18th D.M. Harish Memorial Government Law College International Law Moot Court Competition, 2017.

(b) The Parties request the Court to order that the written proceedings should consist of Memorials presented by each of the Parties not later than the date set forth in the Official Schedule of the 18th D.M. Harish Memorial Government Law College International Law Moot Court Competition, 2017.

Article 5

(a) The Parties shall accept any Judgment and Order of the Court as final and binding upon them and shall execute it in its entirety and in good faith.

(b) Immediately after the transmission of any Judgment and Order of the Court, the Parties shall enter into negotiations on the modalities for its execution.

In witness whereof, the undersigned, being duly authorised, have signed the present Compromis and have affixed thereto their respective seals of office.

Done in The Hague, The Netherlands and this Fifth day of June in the Year Two Thousand Sixteen, in triplicate in the English language.

COMPROMIS

1. The Republic of Patriam ("**Patriam**") and the Republic of Gentem ("**Gentem**") are sovereign nations, permanent members of the Security Council, United Nations and members of the World Trade Organization. Patriam and Gentem are also signatories to the PatriGent Agreement, a bilateral agreement for sharing and cooperation in signals intelligence between the two countries. The text of this alliance is kept classified by the intelligence agencies on both sides and is commonly known as Two Eyes by other intelligence agencies worldwide. Although the alliance was forged between Patriam and Gentem after World War II, it continues to be active today for purposes and intents well beyond the needs of both countries when it was set up.
2. Under the PatriGent Agreement, most of the sharing of information between the two countries' intelligence agencies is done through an ultra secret secured network called RamanGeorge Ghost with its servers on Earth-orbiting reconnaissance satellites owned by Gentem. The RamanGeorge Ghost network host information on national security, foreign intelligence, geospatial intelligence, energy security, signal intelligence and big data analytics undertaken by or on the instructions of intelligence agencies from either of the two countries. Subject to a few exceptions, classified information and reports from one country's intelligence agencies relating to the other are uploaded on the shared network almost as soon as they are collated by the first country's agencies. This means that, so long as it is not prejudicial to the national interests of Gentem, Gentem provides Patriam with all information pertaining to Patriam's national security which makes Patriam better able to assess and protect its residents and citizens against any incidence of threat to security and stability of the nation, and vice-versa. Access to review the uploaded information is restricted to specific named individuals in the intelligence agencies of Patriam and Gentem. Both nations are also signatories to a bilateral Memorandum of Understanding on the Establishment of a Direct Communications Link on the basis of which a hotline was set up between the two heads of state for use in emergency situations.

3. Omnia Inc. is a multinational corporation established in Gentem involved in the business of Internet related services, products and what is now commonly called the Internet of Things. Omnia's software platforms, search engines, cloud computing services, online advertising, big data analytics and mobile operating systems are installed in or power the majority of all computing devices in the world, including auto motives, household and industrial appliances, wearable devices including smart watches and glasses, televisions, electronic display boards, tablet computers, desktop computers, laptops, portable GPS devices, security systems, radio-frequency identification based and other body implants, fitness tracking devices, internet based music and video streaming devices, defence equipment and vehicles, commercial and other aircrafts, space shuttles, payment gateway systems, internet banking systems, online marketplaces, satellite management systems, educational institutions, e-readers, email systems, electronic sensors, electricity distribution systems, traffic management software, passport and immigration software.
4. Since Omnia controls a significant chunk of the operating system market, a majority of all software developers use its platform to develop applications (including those for mobile phones), which are then sold or licensed to customers worldwide. In addition to its own offerings to customers worldwide, applications usage provides Omnia with vast quantities of big data, including a person's location, movement, travel, habits, communication, financials, alliances, businesses, online profiles, anonymous usage and behaviour patterns.
5. Omnia also provides big data analytics services to customers. It analyses big data, collected by it directly or aggregated from various sources, including from applications developed for use on its operating system, as well as from third party sources. Omnia receives most of such data for free and only for a few sources of big data does Omnia expend any money. For data acquired from third parties, Omnia is not in a position to confirm whether the data received was obtained with the consent of an end user. Complaints have been received from individuals, civil and digital rights organizations, corporations and foreign governments claiming that personally identifiable information of its citizens and businesses are being illegally collected, stored, accessed and used by Omnia in violation of their national laws.

6. Increasingly, big data analysis is being provided by private for-profit entities to identify demand, supply, disruptions to both, adaptability of ecosystems to changes, and to predict needs and planning for the future. Financing to fund big data collation and analysis is significant and usually provided by hedge funds, sovereign funds and governments. Private entities such as Omnia regularly provide services or have product offerings made available to customers using big data analysis. Omnia in particular provides an option to seek customized analysis of big data on almost any issue to paying customers. So far, there are no cases filed against Omnia in which potential customers have claimed Omnia has discriminated them against in Omnia's decision not to provide them the consulting services they have sought, whilst providing such services to rivals of such potential customers. A leading journalist with an international publication has commented that this is because of the imbalance in any competitive environment caused on account of Omnia's inputs to an Omnia customer through the analysis of big data provided which has resulted in such customer's competitors (whom Omnia declined to provide services to) being acquired or bankrupted or otherwise being rendered irrelevant solely on account of the quality of intelligence provided by Omnia. Omnia's customers range from private individuals, associations, for-profit entities, non-profits, military agencies, governments and international organizations.
7. The Gentem government, through The Fund for Future Research and Development ("**FFRD**"), owns a minority stake in Omnia and has a representative appointed as a director on the board of directors of Omnia. For taking certain specified decisions, special consent of the director from the FFRD must be taken. The Gentem government has insisted and been given this right by Omnia so as to ensure that the usage of analysis of big data is not used in a way so as to result in a threat to national security or to Gentem interests (political, social or commercial) overseas. Gentem law also mandates that any organization doing business in Gentem that becomes aware of any individual or organization whose actions are likely to be classified as being of a terrorist nature, or against the security and interests (domestic and overseas) of Gentem, such organization is required to report it to Gentem intelligence agencies at the earliest possible opportunity.
8. Omnia has, as part of its corporate social responsibility, and at the urging of international organizations, dedicated the payment of 2% of its annual profits to the United Nations

annually with a request that these funds be used to prevent terrorism and to strengthen international dispute resolution mechanisms handled by the UN or its agencies. In the last year, Omnia contributed \$0.5 billion to the United Nations, making it one of the top donors despite Omnia not being a member. At a press meet the Secretary General of the United Nations joked that the majority of United Nations personnel used devices powered by Omnia's operating system and that she was glad that some of the profits from such use would be ploughed back into the United Nations. Certain instrumentalities of the United Nations are now customers of Omnia's big data analysis services. The International Court of Justice has on one previous occasion permitted Omnia to submit information as amicus curiae in a case before it. In a subsequent case, the International Court of Justice refused to let Omnia submit information. Omnia has for some time now petitioned international organizations and governments to increase the use of big data in taking policy decisions and in solving security issues. Three other organizations, including Redemptore, with big data analysis capabilities somewhat comparable to Omnia, and all established in Gentem, are members of the Big Data for All Organization ("**BDAO**") where voluntary self-imposed regulations undisclosed to the public at large are adopted by members and hotlines have been established between the CEOs of each to avoid unintended outcomes which may emerge from rival uses of big data services provided by them. What level of intelligence sharing takes place between the members of BDAO is unknown.

9. Under Patriam's SmartCities program, the government has announced and developed close to 20 smart cities. Numerous developers, thinkers, service providers, countries and business entities have been invited from across the world in the conceptualization, execution and management of these SmartCities. These SmartCities bring together current best practices in sustainability and living and the Patriam government has invested heavily in each by paying for a number of inputs that go into the development of these cities, from subsidies provided to developers to invest and maintain novel technologies that provide a better quality of living to its residents and tax exemptions for specified categories of individuals to live there so as to provide a diverse and self sustaining community in each. In return, residents of SmartCities in Patriam are made aware of a greater level of visibility into their movements and habits by sensors and other monitoring equipment installed in SmartCities so as to enable the higher standards of living offered.

10. The SmartCities have, among others, wireless electrification, smart traffic and pedestrian thoroughfare, intelligent crime detection and prevention mechanisms, powerful sensors, image and biometric identification systems, cashless societies, environment enhancing waste management, organic urban farming, renewable energy sources, smart cell phone and data network load management systems, water recycling, live health and wellness tracking for all residents etc. Omnia's operating systems play a major role in that it is the preferred operating system for the Internet of Things that powers the network of physical objects that runs the SmartCities. However, Omnia has no official contract with the Patriam government. Also, Omnia does not take the explicit consent of its users using devices powered by its operating system, to combine user data it collects directly or indirectly. Omnia has in the past claimed that this data sharing practice allows it to provide a better unified experience to its users and save valuable time and funds of users and third parties by their being able to target specific intended recipients. Other than for commercial gain, Omnia has through its social networking sites and through the data sharing practices traced the location of individuals through their phone usage, computer usage or last electronically disclosed location in and around a zone where a natural calamity has occurred and even broadcast messages at no cost from local governments to communities in times of need.
11. One of the largest of such SmartCities in Patriam is called IndusGram and is located along the border that Patriam shares with Periculum, a largely lawless nation on the brink of an internal civil war, and a portion of Patriam borders the Mare Sea. Periculum nationals were regularly caught attempting to cross the border illegally into Patriam and had been alleged to be responsible for numerous terrorist activities launched against Patriam, in Patriam and from outside. On account of the inherent instability in Periculum, both Patriam and Gentem had vested interested in ensuring that Periculum did not fall into an internal civil war and that Gentem's borders were well.
12. IndusGram is unique in that it has a flourishing populace, high density of historical and heritage monuments in and around it, nature reserves in close proximity, as well as large gas and crude oil storage facilities and wells in the vicinity of the large port that is on its outskirts. The gas storage facilities are typically fed gas sourced from the Republic of Statumand thereafter processed and supplied to neighbouring countries as well as

distributed locally for use in Patriam. It is one of the largest facilities in the world. Statum's relationship with Patriam was friendly and a significant amount of trade existed between the two nations. On account of its geographical location and strategic importance to Patriam, there are significant quantities of surveillance and defence equipment integrated into the city.

13. During the development of IndusGram, the Patriam government had approached Omnia to extend its consulting services to help evaluate the risk potential of such a SmartCity and partner in its development and smooth functioning by managing the collective intelligence gathered from each of the building blocks for such a community and providing timely intelligence on any threat or risk, manmade or natural, faced by IndusGram over the next ten years so that effective steps could be taken by Patriam intelligence and policing authorities to protect people and keep the property safe. The Patriam government had invited Omnia to participate for a number of reasons, one of which was Omnia's likely ability to collate and process big data from sources, which used Omnia's operating system across the network of physical items such as devices, vehicles, buildings etc. Omnia combined personally identifiable data as well as non-identifiable data obtained by it, either directly or indirectly through third party sources.
14. Omnia undertook a private survey of the proposed area and the preliminary blueprint for developing such a city that had been prepared so far, and was very excited about being invited to participate in a tender to provide such services. Omnia's CEO flew many times to Patriam and she met numerous authorities indicating Omnia's excitement about such a project and willingness to participate should everything pan out to make this happen. Omnia then submitted a proposal to its board of directors that it intended to submit to the Patriam government in reply to the tender put out by the Patriam government.
15. Even though the majority of the board of directors of Omnia consented to the submission of the bid, the consent of the director representing the FFRD was required to submit such a tender. However, the director was not able to attend the board meeting in which this was tabled as an agenda item and consequently Omnia missed the deadline for submitting its bid and could not participate in IndusGram. The Patriam government could not find an alternate suitor to provide these services as all competitors had assumed that with the

red carpet treatment provided to Omnia in Patriam in relation to this project and also on account of Omnia's public statements about its willingness to participate in the project given the natural synergy between its operating system and its ubiquitous use across computing devices and other items which would become mediums for channelling data to Omnia to manage such a project effectively, no one was likely to succeed in winning the tender. Consequently, no one else bid for this tender.

16. A few months thereafter and prior to the commencement of development of IndusGram, a privately held corporation from Gentem named Redemptore, wholly owned by a clutch of Gentem citizens with political antecedents, approached the Patriam government expressing an interest to provide services of a similar nature as those advertised in the tender by the Patriam government for IndusGram. Redemptore was an experienced defence contractor in Gentem and had assisted and provided Gentem military with its support and services in destinations around the world in times of peace and war. Redemptore also had extensive contracts with the Gentem military which was also its single largest customer. After forging a loose alliance with Omnia a few months prior to this, Redemptore had evolved into a service provider to source, process and analyse big data in relation to security needs of its clients. Although Redemptore had not yet provided any solutions for SmartCities in Patriam, it was keen to do so to establish its credentials in this business.
17. Redemptore conveyed to the Patriam government that it would obtain Omnia's board of directors' approval to obtain services from Omnia as would have otherwise been provided by Omnia directly in connection with the development and management of IndusGram. Redemptore would also synthesize its own intelligence and data analysis when providing these services and provide private security services to IndusGram based on this intelligence.
18. In demonstrating its intelligence prowess, Redemptore showcased one of its many products, which through its proprietary pattern recognition software and using inputs from big data feeds from Omnia, on the anniversary of a major riot that had taken place in that region of Patriam years before, identified individuals who would mostly likely commit a crime within 24-48 hours of their identification and on the eve of such

anniversary. In the demonstration, using Omnia's operating system as the base, Redemptore showed Patriam intelligence authorities how easily they could track one or more individuals real time as they went about their daily lives without any awareness of how they were being watched through their digital and physical footprint. One of the individuals being tracked and watched was a Gentem citizen visiting Patriam for business. This Gentem citizen was on the watch list of Gentem intelligence agencies too and securing access to him through Redemptore in Patriam was something that Gentem intelligence agencies were aware of and pleased about. A detail of the crimes in which he was named a suspect and which he was unofficially credited with masterminding was available on the RamanGeorge Ghost network.

19. The demonstration of technological prowess by Redemptore provided Patriam intelligence authorities too with access to vast quantities of information about each of the individuals, including its own citizens who had been shortlisted by Redemptore as likely to commit a serious crime, which information would otherwise have been obtainable only with a warrant and by petitioning internet service providers in Patriam to release information post occurrence of a crime on Patriam soil and through the warrant or order of a court of law in Patriam.
20. Patriam intelligence officials continued to track these individuals real time through the surveillance and intelligence flows provided by Redemptore which were largely from feeds from Omnia, and were surprised by the accuracy of these predictions as almost all of those identified committed a crime from the range provided by the intelligent software showcased by Redemptore in its month long 24/7 demonstration organized at a makeshift office at police headquarters in the vicinity of IndusGram. The crimes ranged from arson to murder and anti-nationalist activities. Fairly impressed by the precision and depth of information that was provided through this demonstration, the Patriam government accepted an offer from Redemptore to provide the same services as the Patriam government had originally tendered for with regard to IndusGram, but for twenty times the annual fee and for payment of the fee annually in advance. The agreement between Redemptore and Patriam had a term of five years and would come up for renewal in 2021. It was governed by the laws of Gentem and subject to dispute resolution at the International Centre for Settlement of Investment Disputes. The agreement

permitted Redemptore to seek inputs and big data analysis from third parties and was governed by the laws of Gentem. Consequently, on account of the back-to-back agreement entered into between Redemptore and Omnia, Omnia would now receive a sum from Redemptore, which was twice the fee, that Omnia had planned to accept from the Patriam government if it had submitted a bid to the tender.

21. The development of IndusGram was completed ahead of schedule and the Patriam government was pleased with the services provided by Redemptore. A year after the completion of IndusGram and it being fully occupied, Omnia started to pick up behavioural, communications, travel and transactional patterns from a loose group of individuals across the world, which suggested that an attack was being planned at a number of locations around the world in a coordinated manner. One of the locations targeted was likely the gas and crude oil storage facility in the vicinity of IndusGram.
22. The nationalities and identities of these individuals were found and along with all other details thrown up by big data analysis, was provided by Omnia to Gentem intelligence agencies as was required under Gentem law. Two of the individuals were citizens of Gentem, two were citizens of Patriam, one was a citizen of Periculum and the remaining ten were citizens of Statum. It was widely accepted and known that Statum's intelligence agencies had ties with organizations designated as terrorists in other nations including in Gentem and Patriam. Of the ten citizens of Statum, five were known to have terrorist links and green notices had been issued by Interpol for them, three were resident in Gentem and were representatives of large Statum-based multinational corporations which had deep business interests in numerous countries, including Gentem and Patriam. The Republic of Statum has periodically challenged the dominance of Gentem and attempted to engage in an arms race to procure thermonuclear and biological weapons. Priests heavily influence Statum's policies and it is alleged that Statum sponsors disruptive activities in neighbouring countries to exert influence over them.
23. Omnia, of its own accord, continued to monitor the situation and tracked these individuals real time to build up intelligence on each of them. They did this by accessing every conceivable digital and physical footprint available on these individuals and provides real-time updates to Gentem intelligence agencies who assigned high altitude

stealth drones to monitor each of them which provided Gentem intelligence agencies, and not Omnia, with additional feedback through their tracking. In Patriam, these drones entered Patriam airspace without the permission of the Patriam government and were able to provide a live stream of footage tracking and analysis of the individuals as they went about their daily lives in Patriam. It also provided images and information about each person that came in contact with these individuals, and even repeatedly photographed two of these individuals who were Statum citizens visiting the police station outside IndusGram where Redemptore was conducting its demonstrations for a few hours each day. There was no regard whatsoever to any applicable law when collecting this intelligence. Omnia's probing of the digital and physical footprints of the individuals in Patriam was not authorized by any Patriam authority and remained unreported to anyone in Patriam.

24. The analysis of Gentem intelligence agencies suggested that the individuals in Patriam were the masterminds behind an initial online hack that would attempt to disable the major systems that powered cities, including IndusGram in Patriam and thereafter there would be an attempt to destroy the gas and crude oil storage facilities outside IndusGram which would lead to an acute loss of energy resources available in the region and create chaos in Patriam and particularly in IndusGram. The two events were thought to have been planned to be executed in quick succession and in September 2015. Big data analysis also indicated to Gentem government that a steep hike in prices of crude oil were likely on account of the fallout of these attacks and would be amplified further if trade sanctions were imposed on Statum.
25. Omnia was ordered not to provide any intelligence it had collected to anyone other than Gentem intelligence agencies. Omnia was also instructed not to factor this information into any data analysis it provided to any of its customers. Consequently, although Redemptore had picked up indications of a heightened level of suspicious activity among individuals discussing a potential incident during the monsoon of 2015 at what Redemptore concluded through its limited big data inputs was at TharGram, a SmartCity in an adjoining state in Patriam. Redemptore dismissed any threat from them since it was not corroborated by Omnia and any request for confirmation of Omnia's analysis of such suspicious activity was met with a standard response which mentioned that Omnia would

review the request and revert to Redemptore. Omnia did attempt to seek its board of director's approval to inform Redemptore of the unusual patterns being identified by its big data analysis regarding the sixteen individuals in Patriam and the possible risk to IndusGram so as to also dismiss the risk at TharGram, but it did not secure the affirmative vote of a director to do so. Also, in reply to Redemptore's request for confirmation of the impending threats thrown up by the analysis, no time frame to provide a response was provided by Omnia to Redemptore. Redemptore did however notify the Patriam intelligence agencies of a large attack at TharGram. Consequently, no warning was provided to Patriam intelligence authorities of unusual activities detected as regards IndusGram or the likely threat to the gas and crude oil storage facilities in its immediate vicinity.

26. Gentem intelligence agencies also chose not to upload this information on the RamanGeorge Network at the time it was informed about the threats by Omnia, and as was envisaged under the Two Eyes agreement. Gentem intelligence agencies did however issue diffusion about these individuals without naming any locations or possible plans of their proposed activities. Such diffusion was sent to and published by Interpol. A travel advisory warning was issued to Gentem citizens seeking to travel to Patriam.
27. Patriam authorities beefed up the security in and around TharGram prior to the monsoon in the hope that it would prevent any attack as was identified by Redemptore. Intelligence officials, policing equipment and other resources were transferred from IndusGram to TharGram to ensure that adequate resources were available to fend off any threat. TharGram was soon converted into a veritable fortress by pulling resources from other towns and SmartCities. Patriam intelligence authorities were circumscribed by what kinds of data and information it could collect legally in Patriam. Also, they did not have access to big data feeds as Omnia had even about those in Patriam that were being monitored by those outside Patriam, and the information collection was piecemeal and largely disjointed.
28. On June 21, 2015 unidentified individuals attempted to hack and cripple the various systems managing the daily running of IndusGram. Their actions pushed the supply of electricity offline, resulted in all drinking water being released into the wastewater

drainage pipes, the disruption of internet services and cell phone networks and turning off of traffic lights resulting in chaos on the streets of IndusGram. The Patriam intelligence authorities and policing establishment were caught unaware as was Redemptore, who had prior to this detected and prevented by informing Patriam authorities of a number of other local attempts at crime in the region. Soon thereafter, on June 22, 2015, unidentified and armed persons entered the gas and crude oil storage facilities and destroyed them completely. The ensuing explosions and damage from the inflammable gas and burning of the crude oil levelled and destroyed IndusGram entirely and resulted in significant loss of life well beyond. Drones from Gentem flying in Patriam airspace did however capture the events that took place in and around IndusGram and footage of that have been retained by Gentem intelligence agencies. This footage has not been uploaded to the RamanGeorge Ghost network. The Patriam government issued a *démarche* to the Gentem government, but that yielded no results. Further, among members of BDAO, it is understood that the footage from the drones matched the big data analysis and corresponding predictions from Omnia as provided to Patriam intelligence agencies. TharGram remained unaffected. Patriam exports were significantly affected as this gas and crude oil was otherwise also fractionally distilled and the resultant products were supplied by refineries to as many as thirteen other countries from Patriam and this ordinarily brought Patriam refineries large amounts of foreign exchange reserves.

29. Upon the occurrence of these events, Patriam demanded to know why Redemptore had not been able to identify these patterns, which led to these attacks. In its defence, Redemptore disclosed that it had sought confirmation from Omnia about this data and that Omnia had provided it none. It also claimed that it had complied with all relevant Patriam laws in discharging its obligations under the agreement with Patriam and the agreement provided that Redemptore would undertake best efforts in discharging its obligations, which it had done. The hotline remains unused by the heads of state of Patriam and Gentem after these events. The hotline between the heads of member corporations of BDAO was heavily used during this period.
30. In and around these dates, the same group in different parts of the world carried out a number of co-ordinated attacks. Swiftly thereafter, Gentem placed immediate sanctions on trade with Statum and Periculum; since Gentem intelligence agencies found that local

intelligence officials were involved in the planning and execution of these attacks. Statum was one of the largest suppliers of crude oil in the world, and the trade sanctions meant that the quantity made available for sale by other oil producing nations would have to be increased to meet even existing demands. The price of crude oil started to climb steadily until it crossed \$150 a barrel. Gentem attempted to seek the imposition of sanctions by the United Nations too, but remained unsuccessful in doing so as Gentem chose not to table evidence of crimes it was charging Statum with to members of the Security Council.

31. Patriam had once again approached Omnia to extend its big data analytic consulting services to it, in order to identify a comprehensive disaster management plan and to figure out a range of issues regarding Patriam's energy security. Once again, Omnia, although keen to do so, could not secure the affirmative approval to proceed. In fact, an embargo on the provision of such services from any BDAO member to any person, business or government outside Gentem territory was quickly announced which would continue until further notice from Gentem government. Omnia could however continue to provide services to the Gentem intelligence establishment and Redemptore could continue to receive services from Omnia. Patriam was disappointed with the behaviour of Gentem and lodged another démarche to no avail. When Patriam attempted to demand a refund of a portion of the amount paid to Redemptore, Redemptore refused citing force majeure as the reason for the discontinuation of services in relation to IndusGram. Patriam then moved to confiscate all Redemptore equipment in Patriam and jailed its personnel in Patriam. Gentem then issued a démarche to Patriam seeking the release of property and personnel of Redemptore. Patriam refused.
32. Patriam purchased most of its gas and crude oil from Statum through forward term contracts, which protected Patriam from having to make purchases on the spot market. However, with the trade sanctions in place Patriam was forced to purchase large amounts of crude oil for its needs in the spot market for rates which were close to double those it was otherwise paying Statum and around \$200 a barrel. This resulted in significantly higher spends on crude oil than were forecasted and correspondingly a price rise for the common man in Patriam.

33. A month prior to the attacks, an international leading daily had published an article indicating that major Gentem crude oil importers were rumoured to have entered into forward long term contracts for the purchase of oil at US\$35 a barrel. Additionally, FFRD had acquired stakes in three large joint venture projects for the extraction of crude oil in countries neighbouring Stratum. These investments by FFRD were also made a month prior to the attacks. The daily also reported that the crude oil extractors and importers were clients of Omnia too and disclosures to the Stock Market Regulation Commission had revealed that data from Omnia had suggested an impending rise in the price of crude oil in the near future prompting Gentem controlled oil suppliers to secure the forward long term contracts.
34. High level talks between representatives of the intelligence organizations of Patriam and Gentem held thereafter failed to arrive at any breakthrough, and this led to both Patriam and Gentem agreeing to refer the points of dispute to the International Court of Justice.
35. The Applicant, the Republic of Patriam submits that:
- (a) Omnia, Redemptore and FFRD should be considered as Gentem state actors under international law, and correspondingly each of their actions should be determined to be those of Gentem itself;
 - (b) The collection, processing, storage, use and commercialization of big data by Gentem, Omnia and Redemptore sourced from Patriam territory and citizens of Patriam is in violation of international law, and the sources of such data, the data in raw and processed form in the possession of and accessible to Gentem, Omnia and Redemptore be sealed and handed over to Patriam immediately with an undertaking from them that they will not use nor permit its use by any Gentem entity;
 - (c) Gentem breached its commitments under the PatriGent Agreement and its actions in allowing the commission of terrorist activities in Patriam without informing Gentem, despite Patriam being aware, in real time, of each activity which led the taking of lives and destruction of property in Patriam, is in violation of international law and Patriam should be compensated for the impact of such a breach;

- (d) Gentem's use of big data to manipulate international markets for commercial gain to benefit Gentem and its businesses, and to the detriment of Patriam and other nations worldwide, is in violation of international law.
- (e) Patriam has also made an unusual request to the court given the circumstances of the case in which it has requested the International Court of Justice to appoint an expert to assess the strength of the firewalls in place on each computing device used by judges so as to attest to the integrity of the computing systems during the trial, and to take an undertaking from Gentem, Omnia and Redemptore that it will not attempt to directly or indirectly access information on any computing devices on which information about this matter at the International Court of Justice. A failure to provide these, Patriam fears, must lead to the International Court of Justice recusing itself as an entity from adjudicating this dispute given the possibility that it may be deemed not to be neutral and independent as an adjudicator given Omnia's relationship with the United Nations and that there do not exist circumstances which guarantee the requisite level of privacy at the ICJ for a fair adjudication of this dispute given the use of Omnia's operating system across the United Nations and its practices of collection of big data from across the world.

36. The Respondent, opposes all the above claims, and further submits that:

- (a) Patriam's inability to detect and neutralize terrorist threats in its territory has resulted in significant losses to a number of countries. Patriam should be held responsible for its inactions and inability to manage such occurrences.
- (b) Patriam is estopped from bringing any claims about the use of big data on account of its own actions as is demonstrated in the facts set out above.

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