

**FIFTH ANNUAL
INTERNATIONAL ALTERNATIVE DISPUTE RESOLUTION
MOOTING COMPETITION**

**27 JULY – 2 AUGUST 2014
HONG KONG**

TEAM: 806C

REPRESENTATION PLAN FOR CLAIMANT

ON BEHALF OF:
Conglomerated Nanyu Tobacco Ltd.

AGAINST:
Real Quik Convenience Stores Ltd.

CLAIMANT

RESPONDENT

Representation Plan on behalf of Conglomerated Nanyu Tobacco Ltd.

Facts and Nature of the Dispute

Real Quik Convenience Stores Ltd. (hereinafter 'Real Quik') has been the largest and most important distribution channel of Conglomerated Nanyu Tobacco Ltd. (hereinafter 'Nanyu') in Gondwana since 2000. The last Distribution Agreement (hereinafter 'Agreement') was signed on 14 December 2010. On 1 May 2013, Real Quik sent a notice of termination of the Agreement to Nanyu. The notice was effective from 1 June 2013. Since Real Quik unilaterally terminated the Agreement within three years from the date of signature for this Agreement, Nanyu is entitled to liquidated damages of USD75,000,000.00 pursuant to Clause 60 of the Agreement. Real Quik sought to rely on Article 79 of the CISG to exempt its liabilities. Hence, this contractual dispute arose out of the Agreement between the Parties. In particular, the Parties are divergent on whether Real Quik's liabilities should be exempted. While Real Quik is unwilling to accept any legal liabilities or to continue its performance of the Agreement, Nanyu is concerned with its losses accumulated in the past year as well as the future losses resulting from the termination of the Agreement.

Interest of the Parties

Nanyu

1. Receiving appropriate compensation for the loss suffered to date
2. Recouping investment already made in the products
3. Restoring business partnership with Real Quik
4. Exploring future business opportunities

Real Quik

1. Avoiding or minimizing financial liability for the termination of the Agreement
2. Avoiding any violation of Bill 275 and future mandatory laws in Gondwana
3. Restoring business partnership with Nanyu
4. Exploring future business opportunities

Negotiation Strategy and Responsibility Sharing

In the opening statement, Mr Chow will outline his perception of the issues and the respective interests of the parties. During the negotiation phase, in line of its interest, Nanyu is prepared to work towards restoring and further developing a mutually beneficial long-term business relationship with Real Quick. Nanyu will express its understanding on the difficult situation faced by Real Quik and its willingness to assist Real Quik in complying with Bill 275. Nanyu values Real Quik as one of its largest purchasers and distributors. Nanyu is willing to compromise and accept appropriate compensation for the loss suffered to date. Finally, Nanyu would like to include a new dispute resolution clause in the new agreement.

The Counsel will ensure Mr Chow remains open-minded and considers all possible solutions. Mr Chow will focus on the financial and business aspects while the Counsel will be in charge of the legal framework of any arrangements as well as play a subsidiary role in the mediation process. The Counsel will also assist Mr Chow in observing the spirit of the mediation and refrain from being too adversarial or positional. At the conclusion of the mediation, Mr Chow will make the final decision on whether to accept or reject any settlement proposals that are put on the table according to the best interest of Nanyu.