

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE SUPERIOR COURT OF JUSTICE OF ONTARIO)**

B E T W E E N :

WORLD BANK GROUP

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- and -

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TABLE OF CONTENTS

| | |
|---|-----------|
| Part I – Overview and Facts | 1 |
| A. Overview: “Implied Waiver” Incompatible with International Privileges and Immunities | 1 |
| B. The Interveners’ Interest in the Appeal | 1 |
| C. The Interveners’ Position on the Facts..... | 2 |
| Part II – The Interveners’ Position on Questions in Issue | 2 |
| Part III – Statement of Argument | 2 |
| A. Privileges and immunities are essential to the carrying-out of the purposes and functions of international organizations | 2 |
| (1) <i>Through collective governance, international organizations are able to fulfill their unique and valuable functions and purposes.....</i> | 2 |
| (2) <i>International cooperation through international organizations may not be possible if it is subject to the jurisdiction of individual members</i> | 3 |
| (3) <i>Treaty documents recognize privileges and immunities as a means for enabling the functioning of these organizations.</i> | 4 |
| B. International organizations have the sole discretion to determine the extent of any waiver of their privileges and immunities | 5 |
| (1) <i>Waivers of international organizations’ privileges and immunities must be express, and not implied</i> | 5 |
| (2) <i>Implied waiver undermines international organizations’ purposes and functions</i> | 6 |
| (3) <i>By necessary implication, only express waiver can apply</i> | 8 |
| C. The principles set out in the decision of the Ontario Superior Court may cast a chilling effect upon certain key activities of international organizations | 9 |
| Part IV – Submissions as to Costs | 10 |
| Part V – Order Sought | 10 |
| Part VI – Table of Authorities | 11 |
| Part VII – Statutes, Regulations, Rules | 16 |

PART I – OVERVIEW AND FACTS

A. Overview: “Implied Waiver” Incompatible with International Privileges and Immunities

1. International organizations, are characterised, *inter alia*, by their independence from executive, administrative, legislative and judicial interference of members (and, where applicable, countries of operations). This independence is necessary in order for international organizations to fulfill the mission of public and collective interest entrusted to them. Privileges and immunities guarantee this essential independence from member interference and allow international organizations to act, in accordance with the collective governance mechanisms envisaged by their constitutive treaties and across international boundaries, in order to carry out their respective mandates. That is the *raison d'être* of the immunities of international organisations recognized in international law.

2. Accordingly, members of international organizations and their organs, including Canadian courts, should uphold these privileges and immunities and may not impose on holders of such privileges and immunities a concept of implied waiver. It is widely recognised that waiver of immunities can only be express. International organizations’ privileges and immunities would be rendered meaningless if made subject to the variable definition and application of the concept of implied waiver by the domestic jurisdiction of each member. Indeed, the independence of international organizations would be undermined by their exposure to divergent and inconsistent application through attempts by domestic courts to determine the scope of international organizations’ privileges and immunities.

B. The Interveners’ Interest in the Appeal

3. The European Bank for Reconstruction and Development (the “EBRD”), the Organisation for Economic Co-Operation and Development (the “OECD”), the African Development Bank Group (“AFDB Group”), the Asian Development Bank (the “AsDB”), the Inter-American Development Bank (the “IDB”) and the Nordic Investment Bank (the “NIB”) (collectively, the “Interveners”) are international organizations which, between them, operate globally. Each international organization has been created by its members as a separate legal entity of supranational character, distinct from that of its members and each having its own governance structures and decision-making organs.

4. Canada (along with, collectively, over 150 other countries with different constitutional and legal regimes) is a member of the EBRD, OECD, AFDB Group, AsDB and IDB and is bound by the constitutive treaties of each of these organizations. Canada has recognized the privileges and immunities of each of these international organizations through legislation and orders of the Governor in Council.¹ Though Canada is currently not a member of the NIB, the NIB has Canadian investors and establishes organizational privileges and immunities similar to those of the other Interveners in its constitutive agreements.

5. Each Intervener, in fulfilling its purposes and functions, as set forth in its constitutive documents, undertakes, among other activities, measures to combat corruption, with support from internal and external parties whose identities and confidentiality is protected.

6. By the present, the Interveners are not attorning to the jurisdiction of the Canadian courts. These submissions are made without prejudice to their privileges and immunities.

C. The Interveners' Position on the Facts

7. The Interveners take no position with respect to any disagreement between the parties on factual matters. The conclusion of the Ontario Superior Court with respect to implied waiver is not a matter of fact.

PART II – THE INTERVENERS' POSITION ON QUESTIONS IN ISSUE

8. The issue in this appeal, which is of particular importance for the Interveners, is whether the waiver of any such privileges and immunities must be made expressly by international organizations acting through their organs.

PART III – STATEMENT OF ARGUMENT

A. Privileges and immunities are essential to the carrying-out of the purposes and functions of international organizations

(1) Through collective governance, international organizations are able to fulfill their unique and valuable functions and purposes

9. The Interveners, as international organizations, are able to achieve cooperative

¹ In Canada, the AFDB Group, AsDB and IDB enjoy the privileges and immunities provided for in their respective constitutive treaties through the Convention on the Privileges and Immunities of the United Nations [“*UN Convention*”]. The EBRD enjoys the privileges and immunities established in its constitutive agreement, as incorporated in both the *EBRD Agreement Act*, SC 1991, c 12, and the *Privileges and Immunities of the EBRD Order*, S.O.R./93-612. The OECD enjoys the privileges and immunities as established in the *Agreement between the Government of Canada and the OECD on the privileges, exemptions and immunities of the Organisation in Canada*, signed on 18 October 1966 in Paris. Additionally, The OECD also enjoys the privileges and immunities as established in the UN Convention, as recognized in the *OECD Privileges and Immunities Order*, S.O.R./91-107.

objectives, in accordance with their respective constitutive agreements, across national boundaries in ways that are otherwise challenging for countries acting independently.² The purposes and functions of each Intervener are determined by its constitutive treaty, which provides for a scheme of internal governance, at the apex of which is a governing body comprised of representatives of the members of the Intervener.³ Members of the Interveners commit to the essential importance of these internal governance mechanisms by ensuring the recognition of those organizations' privileges and immunities.⁴

10. Through their governance structures, as provided for in their respective constitutive treaties, the Interveners facilitate large-scale international undertakings in or among member countries (and where applicable, non-member countries⁵), variously including: (1) infrastructure projects to reduce poverty and facilitate sustainable development; (2) structural and sectoral economic reforms to foster the transition towards open market-orientated economies; and (3) regional economic harmonization, which in many circumstances would otherwise be out of the reach of their members.

(2) International cooperation through international organizations may not be possible if it is subject to the jurisdiction of individual members

11. Privileges and immunities permit the governance mechanisms of international organizations to function independently of competing and different legal systems of members – thus rendering international organizations' collective governance both meaningful and predictable for all members.

12. Foreign courts have recognized that the privileges and immunities afforded to international organizations are rooted in their independence, *i.e.* the need to protect international organizations from any member's unilateral control over their activities within the member's

² See K. W. Abbott, "Executive Summary" in *International Regulatory Co-Operation and International Organisations: The Cases of the OECD and the IMO*, DOI:10.1787/9789264225756-en, p. 13.

³ Agreement Establishing the EBRD, Chapter VI, Arts. 22-23; Agreement Establishing the AFDB (2011), Art. 29; Agreement Establishing the AsDB, Art. 27; Agreement Establishing the IDB, Art. VIII, ss. 1, 2(a); Agreement Between Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway and Sweden Concerning the NIB.

⁴ With respect to the Interveners, Canada achieves this through the *EBRD Agreement Act*, SC 1991, c 12, *Privileges and Immunities of the EBRD Order*, S.O.R./93-612; *OECD Privileges and Immunities Order*, S.O.R./91-107; *AFDB Privileges and Immunities Order*, S.O.R./84-360; *African Development Fund Privileges and Immunities Order*, CRC, c 1304; *AsDB Privileges and Immunities Order*, CRC, c 1305; *IDB Privileges and Immunities Order*, CRC, c 1312.

⁵ The NIB also operates in non-member countries on the basis of Framework Agreements between the NIB and the country in question.

territory or purview, thus allowing organizations to fulfill their mission of public interest.⁶ Domestic courts lack jurisdiction in cases concerning international organizations that operate on the basis of the privileges and immunities recognized by their members.⁷

13. In Canada, Parliament expressed its intent to be bound by international standards that apply to the privileges and immunities of international organizations in exchange for receiving the benefits of membership and inclusion in these organizations.⁸

(3) Treaty documents recognize privileges and immunities as a means for enabling the functioning of these organizations.

14. Canada has recognized the essential role of privileges and immunities to the ability of international organizations to carry out their purposes and functions by: (1) becoming a party to the constitutive agreements of international organizations through membership in those organizations; (2) adopting the terms of the *Convention on the Privileges and Immunities of the United Nations* (“UN Convention”) within orders in council that granted under domestic law privileges and immunities for various international organizations of which it is a member; and (3) signing agreements on the privileges, exemptions and immunities of various international organizations in Canada. Hence, Canada is obligated not to infringe upon these privileges and immunities in a manner that would interfere with these organizations’ ability to carry out their purposes and functions.

15. The UN Convention serves as a reference point for defining the privileges and immunities that have been granted under domestic law to nearly all of the international organizations that Canada recognizes through orders in council made under the *FMIOA*.⁹ The preamble to the UN Convention expressly links the organization’s privileges and immunities to

⁶ *Mendaro v. World Bank*, 717 F.2d 610 (1983); *International Organizations Immunities Act*, 22 U.S.C. ss. 288-288i (1976 & Supp. V 1981) [“IOIA”]; Tribunal De Grande Instance de Paris, 8 Avril 2015, *Eurotrends v. Banque Asiatique de Développement*, File No. 13/07942.

⁷ *Aguado v. IDB*, No. 48, (2004, U.S. Court of Appeals); *Atkinson v. IDB*, No. 97-7181, (1998, U.S. Court of Appeals); *Ashford v. World Bank et. al.*, No. 1:04-CV-3822-JOF (2006, U.S. District Court); *Broadbent v. OAS*, 628 F.2d 27, 34 (D.C. Cir. 180); *International Bank for Reconstruction and Development v. District of Columbia*, No. 98-7055 (1999, U.S. Court of Appeals); *Sampaio v. IDB*, No. 10-0655 (B.A.H.), (2012, U.S. Court of Appeals); *Weinstock v. AsDB et al.*, No. 1:05-CV-00174(R.M.C.). See also *Eurotrends*, *supra*; Cass. Civ. 1^{re}, 24 Octobre 2000, *OECD v. Zwozniak*, No. V 98-43.052; Cass. Soc. 29 Septembre 2010, *Ilemassène v. OECD*, No. J 09-41.030.

⁸ *Foreign Missions and International Organizations Act*, S.C. 1991, c. 41 [“FMIOA”]; *An Act to amend the FMIOA*, Bill C-35, Sponsor: Minister of Foreign Affairs (Royal Assent April 30, 2002); Proceedings of the Standing Senate Committee on Foreign Affairs, 20 February 2002, Issue No. 22.

⁹ *UN Convention*, *supra*; P. M. Saunders, “Canada” in A. Reinisch, *The Privileges and Immunities of International Organizations in Domestic Courts* (United Kingdom: Oxford) 73, p. 85; *FMIOA*, *supra*; this does not apply to the EBRD, whose privileges and immunities are recognized in accordance with the terms of the EBRD Agreement, *supra*, as adopted in the *EBRD Order*, *supra* and the *EBRD Act*, *supra*.

the fulfillment of the organization's purposes and functions. Accordingly, this recognition must be taken as framing all of the UN Convention's terms on privileges and immunities and, by extension, all privileges and immunities recognized by Canada in accordance with the terms of the UN Convention.¹⁰

16. The constitutive agreements of international organizations also expressly set out the privileges and immunities for the fulfillment of their purposes and functions. As a member of these organizations, Canada must be taken to have recognized the essential nature of privileges and immunities for fulfilling international organizations' purposes and functions, as set out in those organizations' constitutive agreements.¹¹

B. International organizations have the sole discretion to determine the extent of any waiver of their privileges and immunities

(1) Waivers of international organizations' privileges and immunities must be express, and not implied

17. Under international law, waivers of international organisations' privileges and immunities must be express, and not implied. As discussed by the International Court of Justice:

[T]he chief administrative officer of the Organization has the primary responsibility to safeguard the interests of the Organization; to that end, it is up to him to assess whether its agents acted within the scope of their functions and, where he so concludes, to protect these agents, including experts on mission, by asserting their immunity. This means that the Secretary-General has the authority and responsibility to inform the Government of a member State of his finding and, where appropriate, to request it to act accordingly and, in particular, to request it to bring his finding to the knowledge of the local courts if acts of an agent have given or may give rise to court proceedings. When national courts are seised of a case in which the immunity of a United Nations agent is in issue, they should immediately be notified of any finding by the Secretary-General concerning that immunity. That finding, and its documentary expression, creates a presumption which can only be set aside for the most compelling reasons and is thus to be given the greatest weight by national courts. The governmental authorities of a party to the General Convention are therefore under an obligation to convey such information to the national courts concerned, since a proper application of the Convention by them is dependent on such information.¹²

18. Further, within the domestic sphere, foreign legislation and corresponding jurisprudence have recognized that international organizations' privileges and immunities are subject to limitation *only* by: (1) an express waiver made by those organizations acting through their organs; or (2) to an executive order of a member's government. In the absence of executive orders to the contrary, foreign jurisdictions therefore place the determination of the extent of any

¹⁰ *UN Convention, supra.*

¹¹ EBRD Agreement, *supra*, Chapter VIII; OECD Agreement, *supra*; OECD Supplementary Protocol No. 1 to the Convention for European Economic Co-operation on the Legal Capacity, Privileges and Immunities of the Organisation; AFDB Agreement, *supra*, Article 50; AsDB Agreement, *supra*, Article 48; IDB Agreement, *supra*, Article XI, Section 1; NIB Agreement, *supra*, Art 14.

¹² Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, 1999 I.C.J. Reports 63, Advisory Opinion of April 29, 1999, p.68. [emphasis added]

waiver of privileges and immunities recognized by domestic law within the discretion of international organizations themselves.

19. This approach is evidenced, for example, in the United States by the *International Organization Immunity Act*, which provides any waiver of the privileges and immunities enjoyed by international organizations must be express.¹³ It has been held by the American courts that the context of particular legal proceedings must be specifically assessed to determine whether a waiver of privileges and immunities corresponds with the intentions of the international organization.¹⁴

20. More recently, in France, the Tribunal de Grande Instance de Paris found, as part of a wider ranging analysis, that France's ratification of an international organization's establishing agreement could serve to restrict the jurisdiction of French courts, in particular circumstances where an international organization had not specifically waived its privileges and immunities.¹⁵

21. The appealed decision thus stands in stark contrast to internationally-accepted legal interpretations of the privileges and immunities contained in treaty documents between international organizations and their members.

(2) Implied waiver undermines international organizations' purposes and functions

22. The suggestion that domestic courts could affect the scope of these privileges and immunities through the variable definition and application of the implied waiver concept, according to principles of each member's own domestic laws, runs counter to their *raison d'être*, and may severely impair the ability of international organizations to carry out their mandate.

23. In Canada, as evidenced by the decision under appeal, the application of the concept of implied waiver requires fact-specific inquiry. Leading Canadian authorities on the concept of implied waiver state that such waiver is determined on the basis of (1) the intent of a disclosing party and (2) the requirements of fairness and consistency.¹⁶ Without admitting the application of the concept of waiver to privileges and immunities, it is helpful to examine the jurisprudence as it illustrates how the broad discretion afforded by each of these criteria has given rise to their inconsistent application by Canadian courts in different provinces.

24. With respect to disclosing parties' intent, some decisions have found that privilege may

¹³ *IOIA, supra.*

¹⁴ *Atkinson, supra*, pp. 3, 7; *Mendaro, supra*, p. 8, *Aguado, supra*, p.3; *Weinstock, supra*, pp. 5-7.

¹⁵ *Eurotrends, supra.*

¹⁶ *S. & K. Processors Ltd. v. Campbell Ave. Herring Producers Ltd.*, 45 B.C.L.R. 218 (S.C.), paras. 10-11; R. W. Hubbard, et al, *The Law of Privilege in Canada* (Toronto: Thomson Reuters, 2015), s 11.220.10.

be impliedly waived through inadvertent disclosure,¹⁷ while others emphasize parties' intentions as the root of an inquiry into whether implied waiver has taken place.¹⁸ Further, some courts have found that implied waiver applying to one document must automatically apply to all related documents,¹⁹ while other courts have found that the scope of implied waiver must be limited based on a party's clear intentions with respect to the scope of disclosure.²⁰ With respect to determining fairness between the parties, courts have generally found implied waiver where one party is found to be attempting to "cherry pick" its disclosure of documents in order to paint a favourable but misleading picture of the truth.²¹ At the same time, courts have also found that partial disclosure of information did not necessarily give rise to fairness concerns.²²

25. Courts have also differed across Canada with respect to the standard of review in appeals of decisions regarding implied waiver and *a fortiori* the jurisdictions of other countries. Most jurisdictions have found that the determination of whether implied waiver has occurred amounts to a question of fact that is entitled to deference on appeal.²³ However, some courts have departed from this rule by concluding that questions concerning the existence of implied waiver constitute questions of mixed fact and law.²⁴ Others have found that questions concerning the waiver of privilege will constitute questions of fact in some cases, and questions of legal principle in others.²⁵ Some have determined that questions on the scope of implied waiver constitute questions of mixed fact and law, while questions on the presence of waiver constitute questions of fact.²⁶

26. Exposing international organizations to fragmented and unpredictable regulation from

¹⁷ *R. v. Basi*, 2009 BCSC 777, paras. 18, 19, 21; *Chapelstone Developments Inc., Action Motors Ltd. and Hamilton v. Her Majesty the Queen in Right of Canada*, 2004 NBCA 96, paras. 58-59.

¹⁸ *Metcalf v. Metcalf*, 2001 MBCA 35, paras. 27-28; *Archean Energy Ltd. v. Canada (Minister of National Revenue)*, [1997] A.J. No. 347 (QL), para. 30; *Anderson Exploration Ltd. v. Pan-Alberta Gas Ltd.*, 1998 ABQB 455, paras. 8, 24, *BCE Inc. v. Ontario Teachers' Pension Plan Board*, 2011 QCCS 6004 (QL), para. 24.

¹⁹ *R. v. Marriott*, 2013 NSCA 12, paras. 39-42; *Legal Aid Ontario v. Gertler*, 2010 ONSC 6556, paras. 19-21.

²⁰ *Chapelstone Developments, supra*; *Nova Scotia (Attorney General) v. Royal & Sun Alliance Insurance Co. of Canada*, 189 N.S.R. (2d) 290, paras. 29-30.

²¹ *Transamerica Life Insurance Co. of Canada v. Canada Life Assurance Co.* (1995), 27 O.R. (3d) 291, paras. 41-42; *O'Scolai v. Antrajenda*, 2008 ABQB 77, para. 8; *Bone v. Person* (2000), 145 Man. R. (2d) 85 (Man. C.A.), paras. 10, 20-24.

²² *G.W.L. Properties Ltd. v. W.R. Grace & Co. of Canada Ltd.*, [1992] B.C.J. No. 1761 (QL), pp. 4-5; *Mayer v. Osborne Contracting Ltd.*, 2012 BCCA 77, paras. 188, 192; *BCE Inc., supra*, paras. 29, 30, 47-52; *S. & K. Processors, supra*.

²³ *R. v. Ragnanan*, 2014 MBCA 1, paras. 36-37; *Geffen v. Goodman Estate*, [1991] 2 S.C.R. 353, paras. 64-69, *R. v. Basi, supra*, citing Sopinka et al., *The Law of Evidence*, 2nd ed., para. 18.

²⁴ *Mayer, supra*, para. 188.

²⁵ *R. v. Spinney*, 2010 NSCA 4, para. 25.

²⁶ *BCE Inc., supra*, paras. 20, 33.

members' legal systems weakens the integrity of the international organizations' internal governance mechanisms and, consequently, their ability to fulfill their purposes and functions.²⁷

(3) By necessary implication, only express waiver can apply

27. The constitutive agreements establishing the Interveners as cooperative organizations among their respective members specifically provide that each of the organization's privileges and immunities from various domestic legal processes are a necessary element to the fulfillment of the organization's purposes and functions.²⁸

28. Given the independent, transnational governance indispensable to the proper functioning of international organizations, provision for the express waiver of privileges and immunities must, not only be respected, but is necessarily part of the legal framework for any international organization.²⁹

29. Canada's approach to determining the scope of international organizations' privileges and immunities under its domestic law must be grounded in the limitations established by the specific terms of the legislative instruments, whether acts or orders in council, granting these privileges and immunities under domestic law and in light of underlying treaty obligations. These terms represent the intentions and reasonable expectations of Canada, the international organizations and their members with respect to the privileges and immunities.³⁰

30. In *Amaratunga*, this Court has specifically recognized the significance of express provisions as placing only functional limitations on the privileges and immunities granted under domestic law by Canada to international organizations. That approach is consistent with this Court's reliance on legislative instruments as providing an exhaustive list of exceptions to the privileges and immunities accorded, under domestic law, to states and their representatives.³¹

31. No Canadian legislative instrument limits the scope of any international organization's privileges and immunities beyond functional limitations. Indeed, the privileges and immunities of some international organizations recognized in Canada allow the scope of these privileges and immunities to be determined by those organizations as "**may be required** for the performance of

²⁷ *Sampaio*, *supra* quoting *Broadbent*, *supra*.

²⁸ EBRD Agreement, *supra*, Chapter VIII; OECD Agreement, *supra*; OECD Protocol, *supra*; AFDB Agreement, *supra*, Article 50; AsDB Agreement, *supra*, Article 48; IDB Agreement, *supra*, Article XI, Section 1; NIB Agreement, *supra*, Art. 14.

²⁹ *Hernandez Febles v Canada (Minister of Citizenship and Immigration)*, 2014 SCC 68, para. 16; *ATCO Gas & Pipelines Ltd. v Alberta (Energy & Utilities Board)*, 2006 SCC 4, paras. 51, 73-74.

³⁰ *Saunders*, *supra*, p. 86.

³¹ *Amaratunga v. Northwest Atlantic Fisheries Organization*, 2013 SCC 66, paras. 47, 52, 53. See also *Kazemi Estate v. Islamic Republic of Iran*, 2014 SCC 62, para. 54; see also *Canadian Planning v. Libya*, 2015 ONSC 3541.

their functions”, thereby further limiting the court’s purview over the functional element.³²

32. As Canada recognizes and participates in the initiatives, undertakings and governance of various international organizations, Canadian courts should not apply a concept that, by subjecting those same organizations to the scrutiny and orders of the domestic courts of one particular member (and different provincial jurisdictions), serves to undermine and potentially impair those organizations’ governance by all members. The efficient and effective functioning of international organizations requires their retaining the discretion to determine, by express statement, when privileges and immunities are waived. Accordingly, even the most restricted privileges and immunities recognized by Canada for international organizations must be read as granting this discretion by necessary implication.

33. The clear purpose and rationale for the privileges and immunities requires that a domestic court be certain that the international organizations did intend to waive them, rather than leave it to the domestic courts to make that decision for them.

C. The principles set out in the decision of the Ontario Superior Court may cast a chilling effect upon certain key activities of international organizations

34. The Court must also consider the important chilling effects that the appealed decision would have on international organizations’ activities.³³

35. As entities that operate through cooperative international networks formed by members and partner organizations, international organizations are uniquely positioned to recognize and investigate the sorts of transnational fraud and corruption that pose challenges to investigation through the resources of countries’ domestic law enforcement alone.³⁴

36. Numerous international organizations, including the Interveners, are required by their members to, and have expressly committed in their operations to combat fraud and corruption. These commitments include both internal policies for investigating and sanctioning fraud and corruption, and inter-organizational agreements to facilitate the sharing of anti-corruption resources and information among international organizations.³⁵ Consequently, international

³² *AsDB Privileges and Immunities Order*, *supra*, s. 3(1); *Caribbean Development Bank Privileges and Immunities Order*, C.R.C., c 1306, s. 3(1).

³³ *RBC Dominion Securities Inc. v. Merrill Lynch Canada Inc.*, 2008 SCC 54, para. 64.

³⁴ J. R. Boles, “The two faces of bribery: International Corruption Pathways Meet Conflicting Legislative Regimes” (2014) 35 *Mich. J. Int’l L.* 673.

³⁵ International Financial Institutions Task Force, *Uniform Framework for Preventing and Combating Fraud and Corruption* (September 2006); *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, Art XII; *Agreement for Mutual Enforcement of Debarment Decisions* (April 2010); Organisation for Economic Cooperation and Development, *Paris Declaration on Aid Effectiveness* (2005).

organizations, including the Interveners, represent an important source for individual nations to challenge organized criminal activities of this nature³⁶ and have been at the forefront of the fight against corruption with their member countries.³⁷

37. International organizations' ability to fulfill their mandate and to cooperate with national authorities, including Canadian law enforcement, may be limited in the event that they are required, as a matter of any national law, to produce documents and information about an investigation in a domestic judicial process contrary to their immunity. Where domestic authorities are involved in their investigations, international organizations rely on their discretion to determine those circumstances in which it would be appropriate for them to either voluntarily participate by providing information, or as the case may be, to expressly waive a specific privilege or immunity to an extent that they determine necessary to assist outside authorities.

38. In light of the above, the appealed decision may cast a chill upon international organizations' networks of information-gathering and information-sharing, thereby compromising the operation of a valuable institution for combatting corruption. This outcome represents a net loss to the public good.³⁸

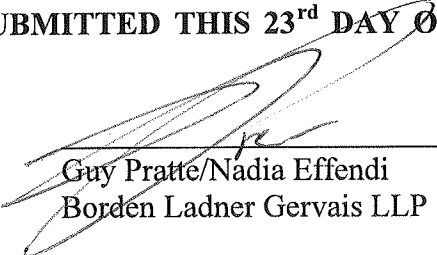
PART IV – SUBMISSIONS AS TO COSTS

39. The Interveners seek no costs and ask that none be awarded against them.

PART V – ORDER SOUGHT

40. The Interveners request leave to make an oral submission of no more than 15 minutes on the hearing of this appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 23rd DAY OF OCTOBER, 2015



Guy Pratte/Nadia Effendi
Borden Ladner Gervais LLP

³⁶ L. A. Benton et al., "International Anti-corruption" (2013) 47 *The Int'l Lawyer* 367.

³⁷ See Oslo District Court (7 July 2015) *The Public Prosecuting Authority v. Kendrick Taylor Wallace*, Case no. 14-022670MED-OTIR/05, p. 50.

³⁸ See e.g. *Canada (Citizenship and Immigration) v. Harkat*, 2014 SCC 37, para. 138; *Berry v. Pulley*, 2002 SCC 40; *Dunmore v. Ontario (Attorney General)*, 2001 SCC 94, para. 150.

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| 4. | <i>Archean Energy Ltd. v Canada (Minister of National Revenue)</i> , [1997] A.J. No 347 (QL) | 24 |
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N/A