

Annex C-004

Email by Respondent to Claimant of January 15, 2021

I am writing this note to respond to your note as of January 4th, 2021

Regarding your comment related to sales report and forecast, we note that [the Claimant] has not requested such reports and [the Respondent] is under no obligation under Section 3.11 or anywhere else unless [the Claimant] requests such reports or forecasts.

I also want to correct your suggestion regarding [the Respondent] marketing competing products from another distributor.

While [the Respondent] has sought a registration in Australia, [the Respondent] has not started any marketing in any territory provided in the above Agreement.

Rather than discuss these tangential non-issues, we should focus on the real issue before us. Namely, what should the 3rd year minimum be and what happens if there is a shortfall.

As we have said before, the parties are required to negotiate the third year minimum in good faith, which we have sought to do by providing our realistic forecast for the third year.

Given [the Claimant's] pricing, it continues to be increasingly difficult to sell [the Claimant's] product in our markets. We appreciate your suggestion of reverting to the year one target; however, it is not realistic.

That said, [the Respondent] may agree to your proposal of the third year annual minimum volume as same as that of the first year depending on [the Claimant's] position on any shortfall.

[The Respondent] does not change its understanding of the parties' intent as to what happens if [the Respondent] fails to meet the minimum in years 3-5.

The responsibility to pay any shortfall is only for the first and second year. [The Claimant's] remedy in years 3-5 is only termination.

That was expressly what both sides agreed to at the beginning as Mr. Ludovicus Legislatus, [the Respondent's] attorney, has already explained the reasons to Ms. Legalia Attornata, [the Claimant's] attorney already.

Please let me know whether [the Claimant] and [the Respondent] should make a written agreement for the amount of the annual minimum volume for the third year.

