

Witness Statement of Cesare Morelli

**INTHE MATTER OF AN ARBITRATION**

**UNDER THE RULES OF ARBITRATION OF THE INTERNATIONAL  
CENTRE FOR THE SETTLEMENT OF INVESTMENT DISPUTES**

**ICSID CASE No. ARB/14/22**

**BETWEEN:**

**(1) BSG RESOURCES LIMITED**

**(2) BSG RESOURCES (GUINEA) LIMITED**

**(3) BSG RESOURCES (GUINEA) SARL**

**Claimants**

**- v -**

**THE REPUBLIC OF GUINEA**

**Respondent**

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**Witness Statement**

**Cesare Morelli**

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**I, Cesare Morelli, will say as follows:**

**Introduction**

- 1.** I make this statement in relation to the claim by BSG Resources Limited, BSG Resources (Guinea) Limited and BSG Resources (Guinea) SARL ("BSGR Group") against the Republic of Guinea ("RoG").
- 2.** Save where I indicate otherwise, the facts and matters set out in this statement are based on my knowledge and belief.
- 3.** As I no longer work for BHP Billiton ("**BHPB**") I do not have access to any contemporaneous documents. This witness statement is therefore based on my

recollection of events which occurred some 11 years ago. For those reasons I cannot be 100% certain about particular details and there will be gaps in my knowledge.

4. Presently I am the Director of Benzu Minerals, a minerals exploration consultancy based in South Africa, as well as the Technical Director at Rainbow Rare Earths which is a mining company engaged in exploration and development in Burundi, East Africa.
5. My career began at De Beers, where I stayed for 18 years, working in the field of diamond exploration. Marc Struik and I overlapped at De Beers for a period but worked in entirely different divisions. I know him in a professional capacity only. We came across each other again in Guinea when I was working for BHPB as Regional Exploration Manager for Africa. I was in that post for 4 years until January 2009.
6. As BHPB Regional Exploration Manager for Africa, one of my key responsibilities was to grow the company's exploration portfolio in Africa in respect of the mineral commodities sought by BHPB: copper, manganese, nickel, diamonds, coal, potash, iron ore and aluminium bauxite.
7. In 2005, when I moved to BHPB, BHPB already had an established presence in Guinea and was involved in the following projects:
  - a. Mount Nimba iron ore project, which was at the pre-feasibility stage;
  - b. Boffa-Santou aluminium bauxite project, for which two large licences had just been granted by the Guinean State; and
  - c. Several pending applications for exploration licences for iron ore in: Nimba North; Diéké; Faranah; and the so-called Simandou North and South blocks.

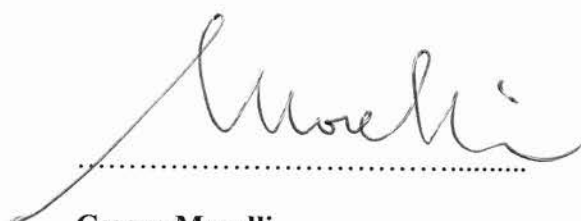
8. Of the iron ore exploration licences listed at paragraph 6(c) above, BHPB were granted the licences for Nimba North; Diéké, and Faranah. The Simandou North and South blocks were granted to BSGR in early 2006. If I remember correctly, the same blocks had been applied for by various other companies in 2003 and 2004 including Rio Tinto, CVRD and a Chinese company whose name I do not recollect.
9. In terms of the Guinean mining laws at that time, it was possible to have several companies applying and competing for the same ground. The rule of "first come, first served" was not applicable, and licences were granted at the discretion of the Ministry of Mines based on the technical and financial merits of the applicant and other government strategic considerations.'
10. As to those other considerations, this is what was explained to me by Ciaran Halpin, our country exploration manager at that time, in the context of the award of Simandou North and South licences to BSGR I understood Ciaran's source to be the Minister of Mines or other senior people at CPDM:
  - a. The Government of Guinea's strategy was to diversify the operators and hence not to grant all the "good ground" to majors only;
  - b. BHPB (as with Rio Tinto) already held many licences over major deposits and mines in Guinea, both in iron ore and bauxite; to grant us more acreage would have probably gone against the government strategy;
  - c. Junior mining companies like BSGR were perceived as often being catalysts of healthy competition, whereas the major companies are very often accused of "freezing ground" for the benefit of their own global strategies, by taking licences out of the market but then failing to take steps to promote production. The junior companies are known to be much more flexible and quicker in developing mineral exploration projects.

11. C Halpin reported back to me that BHPB's application for the Simandou North and South licences had been rejected. Although it was disappointing, the reasons (outlined in paragraph 10 above) sounded plausible and logical. We didn't even think to contest it. BHPB already had iron ore resources in Guinea (the world class Mount Nimba mine) and had been granted all other iron ore exploration licences applied for.
12. It seemed fair and reasonable that the Government wanted to diversify the licence-holders. Financially and technically, whilst BSGR was a "junior" mining company, they were a capable group. Although they may not have had iron ore experience, they were experienced with diamonds. Iron ore exploration is not complicated and Marc Struik had a good team of geologists.
13. Having spent most of my career to date with major mining companies, I now work for junior mining companies. Juniors always want to process explorations quickly and to get results out. There would be no strategic gain for a junior from obtaining an asset and doing nothing with it.
14. So, all things considered, the grant of the Simandou North and South exploration licences to BSGR was not seen by BHPB as an anomaly or something untoward. To the contrary, the management of BHPB decided to embark on discussions with BSGR. The relevant team at BHPB was aware from discussions with Marc Struik that BSGR had agreed a Memorandum of Understanding with the Government of Guinea in connection with its exploration titles.
15. If I recall correctly, our initial exploratory talks with BSGR were held in March-April 2006, with Marc Struik and Mr Roy Oron. We were led to believe by BSGR that they (BSGR) were interested in getting one of the majors involved in a deal, not so much from a financial and investment point of view, although that would naturally have followed, but more for technical input. Indeed, BHPB was then

proprietary owner of the Falcon gravity gradiometry system at the time, which it advertised as a state of the art prospecting tool for iron ore exploration.

16. The discussions between the two companies advanced positively during 2006, with draft deal proposals exchanged, meetings in South Africa and London and a site visit to the Simandou licence sites by the BIIPB geologists towards the end of 2006. It goes without saying that, had a deal been concluded, BIIPB would have undertaken a thorough due diligence on BSGR and especially on their exploration titles. However, the proposed farm-in deal never materialised as we were told that BSGR's strategy had changed. BSGR instead opted to develop the project by themselves and in doing so hoped to increase the value of the asset for a better deal later on. I did not participate in the final discussions between BSGR and representatives from BHPB's Iron Ore Customer Sector Group which probably occurred in early 2007 and so I was not privy of the reasons why the discussions did not progress further. My own interactions with Marc Struik ended towards the end of 2006.

I confirm this statement is true to the best of my knowledge and belief.

A handwritten signature in dark ink, appearing to read 'Morelli', is written over a horizontal dotted line. The signature is fluid and cursive.

**Cesare Morelli**

**Date: 10 January 2017**