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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

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14 In re Application of Rusal Global  
Management B.V. for Order to Obtain  
15 Discovery for Use in a Foreign  
16 Proceeding

) Misc. Action No. CV 12-08898 PSG  
(CWx)

) RUSAL GLOBAL MANAGEMENT  
) B.V.'S STATEMENT ON CURRENT  
) STATUS OF FOREIGN LITIGATION

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) Date: October 17, 2013  
) Time: 4:00 p.m.  
) Ct. No.: 640 (telephonic hearing)  
) Judge: Hon. Carla Woehrlé

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1 Pursuant to the Court’s minute order of October 3, 2013 (ECF 49), Rusal  
2 Global Management B.V. (“RGM”), through its attorneys, respectfully submits this  
3 Statement on the Current Status of the LCIA arbitration and the Nigerian litigation.

4 **I. STATUS OF LCIA ARBITRATION**

5 As noted in earlier briefing before this Court, Dayson Holdings Ltd.  
6 (“Dayson”)<sup>1</sup> is currently arbitrating disputes involving the acquisition of the  
7 Aluminum Smelter Company of Nigeria (“ALSCON”) with the Bureau of Public  
8 Enterprise of the Federal Republic of Nigeria (“BPE”), the Federal Government of  
9 Nigeria (“FGN”), the Ministry of Finance of Nigeria (“MFN”), and the National  
10 Council on Privatization of Nigeria (“NCPN”). The parties are conducting the  
11 arbitration in the London Court of International Arbitration (“LCIA”).

12 Dayson filed its request for arbitration on August 7, 2012, and the full  
13 arbitration panel was appointed on January 31, 2013. Dayson filed its Statement of  
14 Case on May 17, 2013, and BPE filed its response to the Statement of Case on July  
15 19, 2013. Dayson thereafter sought discovery from BPE pursuant to an order of the  
16 arbitration panel. BPE has failed to comply with some of Dayson’s discovery  
17 requests, however, and the arbitration panel subsequently suspended Dayson’s time to  
18 file further responsive papers in the arbitration until the discovery disputes between  
19 Dayson and BPE are resolved.

20 The remaining three respondents in the arbitration (FGN, MFN, and NCPN)  
21 filed an Objection to Jurisdiction on May 31, 2013. Dayson filed its reply to the  
22 objection on June 21, 2013, and the three respondents filed a rejoinder on July 5,  
23 2013. The arbitration panel held a hearing on the objections on July 23, 2013, took the  
24 matter under submission, and has not yet issued a ruling.

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27 <sup>1</sup> Dayson is a member of the United Company Rusal PLC (Jersey) group of companies  
28 (the “UCR Group”), and RGM (another member of the UCR Group) performs  
management and coordinating functions throughout the UCR Group.

1 The next step in the arbitration is the submission of Dayson’s Statement of  
2 Reply on the merits, but the deadline on that statement is suspended pending the  
3 resolution of the discovery dispute. Dayson anticipates the discovery dispute will be  
4 resolved within the next month.

5 As noted in earlier briefing, BFIGroup Corporation (“BFIG”) is not a party to  
6 the LCIA arbitration.

7 Accordingly, the LCIA arbitration remains active and is still in a relatively early  
8 stage. Dayson continues to engage in substantial efforts (through investigation,  
9 discovery, and the section 1782 petition filed with this Court) to develop its case for  
10 presentation to the LCIA arbitrators.

### 11 **III. STATUS OF NIGERIAN LITIGATION**

12 On or about November 3, 2011, BFIG filed an action in the High Court of the  
13 Federal Capital Territory Abuja, Nigeria, in the Abuja Judicial Division, against JSC  
14 Russian Aluminum (Russal) [sic], JSC Bratsk Aluminum Plant, Rusal America,  
15 Dayson, and others. A Writ of Summons, which BFIG had to serve upon the  
16 defendants, was issued by the Nigerian court on November 3, 2011, but BFIG did not  
17 serve the Writ before it expired on November 2, 2012. BFIG subsequently received  
18 from the Nigerian court a renewal of the Writ on November 12, 2012, and RGM then  
19 received the Writ and supporting papers on January 31, 2013.

20 The Nigerian action has proceeded since that time, and the court held a hearing  
21 on October 7, 2013. Although the October 7 hearing was initially scheduled as a trial  
22 date, the defendants’ motion to join BPE as a co-defendant in the matter was still  
23 pending as of that date, and BFIG did not file its counter affidavit and responsive  
24 arguments to the motion until the morning of October 7. At the hearing, the  
25 defendants informed the court that they would need time to review BFIG’s counter  
26 affidavit and arguments and file a reply. The court subsequently set a hearing for  
27 October 30, 2013 on the motion for joinder, at which time the court may either issue a  
28 ruling on the motion or take the matter under submission. Counsel for defendants

1 anticipates that a trial on the merits will not occur until early 2014, and discovery  
2 obtained in this action can still readily be offered in those proceedings.

3 **III. STATUS OF RGM'S SERVICE OF SUBPOENA ON REUBEN JAJA**

4 As noted in earlier briefing to this Court, RGM issued (pursuant to this Court's  
5 earlier order) a subpoena to Mr. Reuben Jaja, a California resident and whom RGM  
6 believes to be the chairman of BFIG, for documents and testimony relevant to the  
7 LCIA arbitration, and actual or contemplated proceedings in Nigeria relevant to the  
8 ALSCON dispute. *See* ECF 1 at 6-7. Mr. Jaja is not a party to the LCIA arbitration or  
9 the ongoing action in Nigeria, but as a California resident, he is subject to the  
10 jurisdiction of this Court. RGM made multiple efforts to serve the subpoena upon Mr.  
11 Jaja, but ultimately decided to postpone further service efforts because the issue of the  
12 validity of the subpoena issued to Mr. Jaja is also awaiting the threshold issue of  
13 whether the subpoena issued to BFIG is valid under 28 U.S.C. § 1782. *See* ECF 37 at  
14 33-34.

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17 Dated: October 14, 2013

SIDLEY AUSTIN LLP

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19 By: /s/ Robert B. Martin III  
20 Robert B. Martin III  
21 Attorneys for RUSAL GLOBAL  
22 MANAGEMENT B.V.  
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