IN THE INTERNATIONAL COURT OF JUSTICE

AT THE PEACE PALACE

THE HAGUE, THE NETHERLANDS

THE CASE CONCERNING

QUESTIONS RELATING TO PRIOR INFORMED CONSENT AND BENEFIT SHARING IN THE CONTEXT OF DE-EXTINCTION

ANECOYON

(APPLICANT)

v.

RIDUS

(RESPONDENT)

MEMORIAL FOR THE RESPONDENT

30th Annual Stetson International Environmental Moot Court Competition

2025 - 2026

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TABLE OF ABBREVIATIONS

Abbreviation	Meaning
ABS	Access and Benefit-Sharing
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COP	Conference of the Parties (to the CBD)
CRISPR	Clustered Regularly Interspaced Short Palindromic Repeats (gene-editing technology)
DSI	Digital Sequence Information
ICJ	International Court of Justice
ILC	International Law Commission
ISIC	International Standard Industrial Classification (of All Economic Activities)
LMO	Living Modified Organism
MOP	Meeting of the Parties (to a Protocol)
NP	Nagoya Protocol on Access and Benefit-Sharing

PIC	Prior Informed Consent
SAP	Sidney Animal Park (non-profit zoo in Ridus)
UN	United Nations
VCLT	Vienna Convention on the Law of Treaties
WAZA	World Association of Zoos and Aquariums
Cali Fund	Global fund under CBD Decision 16/2 for multilateral DSI benefit-sharing

QUESTIONS PRESENTED

I. Regarding prior informed consent:

A. Whether Ridus's conduct complied with or violated the prior informed consent provisions of the CBD and the Nagoya Protocol, to the extent they are applicable;

B. Whether Anecoyon's refusal to consent based on its objections to de-extinction is counter to the CBD's objectives.

II. Regarding benefit sharing:

A. Whether, as an initial matter, DSI used for de-extinction activities is "biotechnology" for purposes of the CBD and the Nagoya Protocol;

B. If so, whether the Sidney Animal Park is a user of DSI on genetic resources for purposes of CBD Decision 16/2, and whether the Sidney Animal Park is engaged in commercial activity covered by a sector currently listed in CBD Decision 16/2.

STATEMENT OF JURISDICTION

Pursuant to *Article 40 of the Statute of the International Court of Justice*, the sovereign States of Anecoyon and Ridus have submitted to the Court, by Special Agreement, questions concerning their differences relating to prior informed consent and benefit sharing in the context of de-extinction, as set forth in Annex A. The Parties transmitted a copy of the Special Agreement to the Registrar of the Court on 14 July 2025, and, in accordance with *Article 26 of the Rules of the Court,* the Registrar acknowledged receipt on 28 July 2025.

By this instrument, the Parties have expressly recognized the jurisdiction of the Court to decide the matter and have undertaken to abide by its Judgment. Accordingly, the Parties respectfully request the Court to adjudicate upon the merits of their dispute in accordance with the rules and principles of general international law and the applicable treaties, and to determine the legal consequences, including the respective rights and obligations of the Parties, arising from its decision.

STATEMENT OF FACTS

Anecoyon and Ridus are separate, independent, and sovereign States.[1] In 2009, Anecoyon, the country of origin of the genetic resources, loaned a specimen of a Royal Panther to the National Museum of Ridus for a period of twenty years. The agreement stated that the specimen was provided "for the purposes of education and scientific research."[2]

On 16 September 2022, Ridus announced that, within the past month, it had extracted DNA from the Royal Panther fossil and intended to create a reference genome and use the digital sequence information ("DSI") for the de-extinction and reintroduction of Royal Panthers in protected areas as part of a national rewilding project.[3]

On 9 November 2022, Ridus asserted that "Mapping the genome of the Royal Panther is scientific research, and therefore, the original loan agreement satisfied any consent requirement."[4] Negotiations concluded in October 2023, with Anecoyon demanding: (i) recognition of the absence of its prior informed consent, (ii) the return of the fossil, and (iii) the abandonment of the de-extinction project.[5]

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[1] *Record* ¶ 2.
[2] *Id.* ¶ 15.
[3] *Id.* ¶ 16.
[4] *Id.* ¶ 21.
[5] *Id.* ¶ 24.

Ridus responded that denying access to the genetic resources and opposing de-extinction were contrary to the CBD's objectives.[6] Nevertheless, Ridus returned the fossil to Anecoyon but continued the genome sequencing and de-extinction process.[7]

On 13 August 2024, Ridus completed the Royal Panther genome sequence and conducted consultations with the leaders of the Panthera communities in Ridus.[8]

On 19 December 2024, two panthers -Ixchel and Itzamna- were born in Ridus and are currently being raised in the Sidney Animal Park ("SAP"), operated by a non–profit corporation.[9]

Under an agreement between Ridus and the SAP, in exchange for the Park's care for the panthers, the SAP is allowed to charge visitors to observe them.[10] The revenue generated from the panther-viewing fees is used for the animals' care, and any excess funds are directed to the SAP's captive-breeding programs for other species.[11]

CBD Decision 16/2 provides that "all users of digital sequence information on genetic resources under the multilateral mechanism should share benefits arising from its use in a fair and equitable manner."[12] Accordingly, on 22 April 2025, Anecoyon requested that the SAP contribute 0.1% of its annual revenue to the Cali Fund.[13] Ridus, however, maintained that Decision 16/2 was not

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[6] *Id.* ¶ 25.
[7] *Id.* ¶ 27.
[8] *Id.* ¶ 28.
[9] *Id.* ¶ 32 - 33.
[10] *Id.* ¶ 34.
[11] *Id.* ¶ 35.
[12] *Id.* ¶ 37.
[13] *Id.* ¶ 38.

applicable, arguing that the SAP's activities do not fall within the sectors benefiting from the use of DSI.[14]

In light of their shared history and close connections, Anecoyon and Ridus subsequently agreed to submit their dispute to the ICJ to determine questions of prior informed consent and benefit sharing, and to accept the Court's judgment as final and binding.[15]

[14] *Id.* ¶ 40.
[15] *Id*. ¶ 46.

SUMMARY OF ARGUMENTS

First, Ridus did not violate international law with respect to the Prior Informed Consent ("PIC") provisions of the Convention on Biological Diversity ("CBD") and the Nagoya Protocol on Access and Benefit-Sharing ("NP"). The NP cannot be applied retroactively to the 2009 fossil loan agreement between Anecoyon's Ministry of Natural Resources and the National Museum of Ridus, which was concluded for the purposes of "education and scientific research" and predates the Protocol's entry into force. Even if the NP were deemed applicable, the 2009 loan agreement constituted a valid PIC for genome sequencing. In any event, because the Royal Panther historically ranged across both Anecoyon and Ridus, its transboundary distribution triggers the cooperative framework of Article 11 of the NP. Anecoyon's refusal to grant consent based solely on its objection to de-extinction is therefore inconsistent with the CBD's objectives.

Second, Ridus did not violate international law regarding Access and Benefit-Sharing ("ABS") obligations under the CBD and the NP. DSI used for de-extinction activities does not constitute biotechnology within the meaning of either instrument. Even if it did, the SAP is neither a user of DSI within the scope of CBD Decision 16/2 nor engaged in commercial activities in any of the sectors listed therein. As a zoological garden providing non-commercial care to state-owned animals, it falls outside the mechanism's scope. Consequently, no contribution obligation is triggered, and Ridus remains in compliance with international law.

MAIN ARGUMENTS

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1. Ridus did not violate international law with respect to the Prior Informed Consent provisions of the Convention on Biological Diversity and the Nagoya Protocol on Access and Benefit-Sharing

This section demonstrates that Ridus fully complied with its obligations concerning PIC under the CBD and the NP, and that Anecoyon's contrary conduct contravenes those treaties' cooperative objectives. Specifically, Ridus acted within international law by lawfully accessing the Royal Panther fossil under a valid 2009 State-to-State agreement, conducting subsequent research consistent with the CBD's cooperative framework, and engaging in transparent dialogue with Anecoyon and relevant Indigenous communities. By contrast, Anecoyon's attempt to impose retroactive consent requirements and to unilaterally restrict transboundary cooperation conflicts with the object and purpose of both treaties and the customary principles of cooperation and sustainable development.

a. The Nagoya Protocol cannot be applied retroactively to the 2009 fossil loan agreement

Ridus did not violate the PIC provisions of the NP because the 2009 fossil loan predated the Protocol's entry into force for both Parties. Under Article 28 of the VCLT, treaty obligations apply only to acts or facts occurring after a treaty becomes binding.[16] This section shows that:

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[16] *Vienna Convention on the Law of Treaties,* Article 28.

(i) the loan constituted a complete act of access in 2009; (ii) the NP contains no indication of retroactive intent; and (iii) retroactive application would contravene non-retroactivity, legal certainty, and *pacta sunt servanda*.

i. The 2009 fossil loan constituted access completed before the NP's entry into force

The act relevant to the NP's consent regime is the moment of access to genetic resources. That access occurred in 2009, when Anecoyon's Ministry of Natural Resources loaned the Royal Panther fossil to the National Museum of Ridus "for the purposes of education and scientific research" under a valid State-to-State agreement.[17] From that moment, Ridus lawfully possessed the fossil and was authorized to conduct scientific research under the agreed terms.

In contrast, the NP entered into force only in 2014, and both Anecoyon and Ridus ratified it in 2015.[18] Consequently, when the access occurred, no NP obligations existed for either State. The later act of DNA sequencing in 2022 did not alter the legal character of the 2009 loan.[19] Sequencing is a downstream research activity, not a new act of access.[20] Reclassifying it as such would artificially reopen a closed transaction and distort the temporal scope of the Protocol.

ii. Article 28 of the VCLT confirms the rule of non-retroactivity, which the NP does not displace

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[17] *Record* ¶ 15.
[18] *Id*. ¶ 11.
[19] *Id*. ¶ 16.
[20] Satam, Heena et al. "*Next-Generation Sequencing Technology: Current Trends and Advancements.*" Biology vol. 12,7 997. 13 Jul. 2023, 2. Generations of Sequencing Technologies.

Article 28 of the VCLT provides that treaty provisions bind a Party only with respect to acts or facts occurring after a treaty's entry into force, unless the treaty indicates otherwise.[21] Article 24 further clarifies that a treaty enters into force in the manner and upon the date it provides.[22] Nothing in the NP's text, context, or object and purpose indicates an intent to depart from this rule. The NP's design is forward-looking, requiring each Party to establish national measures governing future access and benefit-sharing.[23] These provisions presuppose new access requests, not transactions concluded years before ratification.

Anecoyon argues that because genome sequencing occurred after 2015, PIC was required at that later stage.[24] This interpretation collapses the deliberate distinction drawn by the CBD and the NP between access -the initial obtaining of material- and utilization -subsequent research and development-.[25] The NP governs access to genetic resources for their utilization, not independent research performed years later under an earlier lawful access. The 2009 loan already defined the conditions under which research could take place. As this Court observed in *Gabcíkovo-Nagymaros*, a mere change in circumstances does not justify altering or extinguishing treaty obligations unless it "radically transforms the extent of the obligations still to be performed."[26] Likewise, the evolution of scientific techniques -such as genome sequencing- cannot retroactively alter or reopen access events concluded prior to the NP's entry into force. No provision of the

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[21] *VCLT, supra note 16*.
[22] *Id*. 24.
[23] *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity*, Articles 6 - 7.
[24] *Record* ¶ 20.
[25] *NP, supra note 23*, Article 2; *CBD.*
[26] *Case Concerning the Gabčíkovo–Nagymaros Project (Hungary/Slovakia), Judgment, 1997 ICJ,* ¶ 104.

Protocol authorizes States to revisit settled transactions or impose new consent requirements solely because technological capabilities have advanced.

iii. Retroactive application would violate legal certainty and *pacta sunt servanda*

Imposing NP duties on the 2009 loan would disregard the Parties' settled expectations and the sanctity of their agreement. Under Article 26 of the VCLT, every treaty in force must be performed in good faith.[27] That principle presupposes that rights and obligations crystallized under one legal regime cannot be rewritten by later-adopted instruments.

The ICJ has repeatedly underscored that retroactive application of new legal obligations would undermine legal certainty. In the *Ambatielos Claim*, the Court cautioned that "[t]o accept this theory would mean giving retroactive effect to Article 29 of the Treaty of 1926… There is no such clause or object in the present case. It is therefore impossible to hold that any of its provisions must be deemed to have been in force earlier."[28] Likewise, in *Application of the Genocide Convention*, the Court affirmed that treaties do not impose obligations for prior conduct absent a clear contrary intention[29].

Anecoyon voluntarily authorized the loan "for education and scientific research".[30] Having consented to that purpose, it cannot now invoke a later treaty to requalify the transaction. Doing

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[27] *VCLT, supra note 16,* Article 26.
[28] *Ambatielos Case (Greece v. U.K.), Preliminary Objection, Judgment, 1952 ICJ,* ¶ 40.
[29] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Yugo.), Preliminary Objections, Judgment, 1996 ICJ,* ¶ 15.
[30] *Record* ¶ 15

so would undermine the predictability that underpins both treaty relations and scientific cooperation.

There is no indication that Anecoyon and Ridus ever agreed to extend the NP retroactively to the 2009 loan. Article 31 (3) (a) of the VCLT permits subsequent agreements to clarify meaning or scope, but none exists here.[31] The record shows only diplomatic exchanges disputing interpretation, not a mutual decision to apply the NP to past access.[32] Nor have COP decisions under the CBD or the NP suggested that pre-entry-into-force transactions fall within the Protocol's scope. To the contrary, the COP has emphasized assisting Parties in developing future domestic ABS frameworks.[33]

Because the fossil loan -and therefore the act of access- occurred in 2009, five years before the NP's entry into force and six years before both States became Parties, the Protocol's consent regime cannot lawfully be applied to it. The sequencing conducted in 2022 did not create a new access event or trigger new obligations. Applying the NP retroactively would violate the VCLT, unsettle a completed legal act, and breach *pacta sunt servanda*. Ridus thus remains in full compliance with its obligations under international law.

b. In any event, the 2009 loan agreement constituted a valid PIC under the CBD

Ridus maintains that no PIC was legally required in 2009, since the NP was not in force. Nevertheless, even assuming such consent was necessary, Anecoyon validly provided it. The

[31] *VCLT, supra note 16,* Article 31 (3) (a).
[32] *Record* ¶ 18-22
[33] *Decision NP - 1/4, 2014*

following arguments demonstrate this: (i) the 2009 State-to-State loan constitutes express consent under Article 15 of the CBD; (ii) that consent was sufficiently informed in light of the treaty's object and purpose; and (iii) its interpretation is reinforced by general international law principles of cooperation, due diligence, and sustainable development.

i. The 2009 State-to-State loan expressly authorized scientific research and thus satisfied any consent requirement

In 2009, Anecoyon's Ministry of Natural Resources loaned the Royal Panther fossil to the National Museum of Ridus "for the purposes of education and scientific research."[34] That authorization, given by the competent national authority through a formal inter-institutional agreement, constitutes valid consent under Article 15 of the CBD.[35] The act of access was therefore performed with Anecoyon's express knowledge and permission.

Interpreted in good faith and in light of the CBD's object and purpose, as required by Article 31 of the VCLT, the phrase "scientific research" encompasses the full range of *bona fide* analytical methods ordinarily used for conservation and academic purposes, including genome sequencing.[36] As the Court has recalled, "in accordance with customary international law, reflected in Article 31 of the 1969 Vienna Convention on the Law of Treaties, a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the lights of its object and purpose."[37] Restricting the term to exclude standard molecular analysis would

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[34] *Record* ¶ 15.
[35] *Convention on Biological Diversity,* Article 15.
[36] *VCLT, supra note 16,* Article 31.
[37] *Case Concerning the Territorial Dispute (Libyan Arab Jamahiriya/Chad), Judgment, 1994 ICJ* ¶ 41.

contradict the cooperative spirit of the Convention, which, as emphasized in its Preamble, "stresses the importance of, and the need to promote, international, regional and global cooperation among States and intergovernmental organizations and the non-governmental sector for the conservation of biological diversity and the suitable use of its components."[38]

The CBD establishes an enabling framework for scientific cooperation. Article 12 encourages Parties to establish and maintain programmes for scientific and technical education and training.[39] Articles 16, 17, and 18 promote the transfer of technology, exchange of information, and technical cooperation among Parties.[40] Read together, these provisions evidence a commitment to facilitate, not hinder, legitimate research furthering conservation and sustainable use.

Interpreting "scientific research" broadly also aligns with customary principles of international cooperation and due diligence recognized by the ICJ in the *Pulp Mills Case*[41] as well as in *Gabcíkovo-Nagymaros*.[42] Both decisions emphasize that States must cooperate in good faith and exercise due diligence in preventing environmental harm while pursuing sustainable development. Authorizing cross-border scientific research that advances biodiversity knowledge fulfills these duties rather than breaching them.

ii. Anecoyon's consent was sufficiently informed within the meaning of Article 15 of the CBD

[38] *Convention on Biological Diversity,* Preamble.
[39] *Id.,* Article 12.
[40] *Id.,* Articles 16 - 18.
[41] *Case Concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, 2010 ICJ ¶ 187.*
[42] *Gabčíkovo–Nagymaros, supra note 26.*

Anecoyon's claim that its consent was not informed because it did not specifically contemplate genome sequencing misstates the legal standard. "Informed" requires awareness of the nature and purpose of access and any conditions the provider wishes to impose, not foresight of every technique that science may later develop. The 2009 loan defined a broad purpose –education and scientific research– and imposed no restrictions.[43] By consenting on that basis, Anecoyon allowed the receiving institution to employ ordinary, foreseeable scientific methods to achieve that purpose.

Moreover, by 2009, DNA extraction and sequencing of ancient material were established techniques in paleogenetics and conservation biology.[44] A reasonable provider State could anticipate that research on a well-preserved fossil might include molecular analysis to reconstruct evolutionary history. The CBD promotes, rather than penalizes, such innovations, as it directly supports the Convention's objectives of conservation and sustainable use.

iii. Interpreting the loan as valid PIC best fulfills the CBD's objective and general international law principles

The CBD's overarching purpose –conservation, sustainable use, and equitable benefit sharing– is served when States facilitate public-interest research.[45] To read "scientific research" narrowly would frustrate this cooperative objective and undermine the principle of sustainable development, which the ICJ recognizes as part of contemporary international law. As the Court observed,

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[43] *Record* ¶ 15.

[44] Preetha J Shetty, The Evolution of DNA Extraction Methods. 2020 - 8(1). AJBSR.MS.ID.001234. Page 40; Mariyam Dairawan & Preetha J. Shetty, *The Evolution of DNA Extraction Methods*, 8 Am. J. Biomed. Sci. & Res. 39 (2020).

[45] *Convention on Biological Diversity,* Article 1.

> [t]hroughout the ages, mankind has, for economic and other reasons, constantly interfered with nature. In the past, this was often done without consideration of the effects upon the environment. Owing to new scientific insights and to a growing awareness of the risks for mankind -for present and future generations- of pursuit of such interventions at an unconsidered and unabated pace, new norms and standards have been developed, set forth in a great number of instruments during the last two decades. Such new norms have to be taken into consideration, and such new standards given proper weight, not only when States contemplate new activities but also when continuing with activities begun in the past. This need to reconcile economic development with protection of the environment is aptly expressed in the concept of sustainable development.[46]

The 2009 loan was a sovereign-to-sovereign arrangement undertaken for educational purposes, precisely the type of cooperation envisioned by Article 15 of the CBD.[47] It satisfied all procedural expectations for access: competent authority, a defined purpose, and prior consent before transfer. In doing so, Ridus acted consistently with the customary principles of cooperation and prevention of transboundary harm.[48]

Even if PIC was hypothetically required in 2009, Anecoyon's Ministry of Natural Resources granted valid, informed consent through the loan agreement. The authorization for "education and scientific research", interpreted in accordance with the CBD's cooperative framework and general international law, encompasses genome sequencing as a standard scientific technique. The claim that consent was uninformed is therefore unfounded, and Ridus's conduct fully complied with its obligations under international law.

c. The Royal Panther's transboundary range invokes cooperative obligations under Article 11 of the NP

[46] *Gabčíkovo–Nagymaros, supra note 26.*
[47] *Convention on Biological Diversity,* Article 15.
[48] *Obligations of States in respect of Climate Change (Advisory Opinion), 2025 ICJ,* ¶ 271 - 300.

The Royal Panther's transboundary range and shared genetic heritage engage the cooperative framework established under Article 11 of the NP.[49] Accordingly, it imposes a duty to cooperate, not unilateral control. Three arguments sustain the foregoing claim: (i) the species' transboundary character activates Article 11's cooperation clause; (ii) Anecoyon's exclusive claim contradicts that obligation and the CBD's cooperative framework; and (iii) Ridus's conduct reflects good-faith compliance with its treaty and customary duties.

i. The Royal Panther is a transboundary species within the meaning of Article 11 of the NP, triggering a duty to cooperate

The Royal panther *(puma royali*) once inhabited the territories that are now Anecoyon and Ridus, and fossils of the species have been discovered in both States.[50] Its genetic heritage is therefore shared; no single Party can claim exclusive jurisdiction over its access and use.

Article 11 of the NP provides that where the same genetic resources occur *in situ* within the territory of more than one Party, those Parties shall cooperate with the involvement of relevant stakeholders, including Indigenous and local communities.[51] The operative verb "shall cooperate" creates a binding duty of coordination. It seeks to prevent exactly the kind of unilateral appropriation that Anecoyon asserts, ensuring instead that shared resources are managed through concerted efforts reflecting scientific, ecological, and equitable considerations.

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[49] *NP, supra note 23*, Article 11.
[50] *Record* ¶ 6-7
[51] *NP, supra note 23*, Article 11.

This cooperative approach accords with general international law. As aforementioned, the ICJ has recognized cooperation and prevention as core obligations of environmental law, requiring States to act in good faith to manage shared resources and avoid transboundary harm.[52] The Royal Panther's cross-border distribution situates the case squarely within that framework.

ii. Anecoyon's claim of exclusive control over the panthers contradicts Article 11 of the NP and the CBD's cooperative framework

Anecoyon's position -that it alone may authorize or veto research because the panther's fossil originated on its territory- reverses the cooperative logic of Article 11.[53] The Protocol's architecture is premised on shared stewardship, not territorial exclusivity.[54] Treating a transboundary species as the sole property of one State disregards the text's plain obligation to cooperate and erodes legal certainty for scientific institutions.

The CBD likewise enshrines cooperation as a guiding principle. Article 5 requires parties to cooperate for the conservation and sustainable use of biological diversity[55], while Articles 12, 16, and 17 encourage joint research, technology transfer, and information exchange.[56] Anecoyon's refusal to engage in coordinated governance thus frustrates both treaties' objectives and the customary principle of sustainable development, which demands balancing conservation, equity, and progress.

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[52] *Obligations of States in respect of Climate Change (Advisory Opinion), 2025 ICJ,* ¶ 271 - 300.
[53] *NP, supra note 23*, Article 11.
[54] *Id*. Article 23.
[55] *Convention on Biological Diversity,* Article 5.
[56] *Id.* Articles 12, 16 - 17.

iii. Ridus acted consistently with its cooperative and due diligence obligations

Ridus has demonstrated good-faith compliance with its obligations of cooperation and due diligence. It entered into a formal loan agreement with Anecoyon for scientific research[57], repeatedly sought dialogue regarding the de-extinction project[58], and consulted Indigenous Peoples traditionally associated with the Royal Panther.[59] These actions reflect transparency and inclusion, hallmarks of due diligence under international environmental law.[60]

By consulting affected communities and negotiating with Anecoyon, Ridus fulfilled the procedural aspects of cooperation recognized in the *Pulp Mills Case*, where the ICJ observed that "it is by co-operating that the States concerned can jointly manage the risks of damage to the environment that might be created by the plans initiated by one or other of them, so as to prevent the damage in question, through the performance of both the procedural and the substantive obligations laid down [...]."[61] Anecoyon's unilateral restriction, by contrast, collapses Article 11's cooperative architecture and chills legitimate conservation research.

Because the Royal Panther's historical range and genetic heritage are shared, Article 11 of the NP obliges both Parties to cooperate in governing access, research, and potential benefit sharing. Ridus has acted in accordance with that obligation through negotiation, inclusion of Indigenous Peoples, and transparent coordination. Anecoyon's attempt to assert exclusive control contravenes the

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[57] *Record* ¶ 15
[58] *Id.* ¶ 18-24.
[59] *Record* ¶ 28.
[60] *Obligations of States in respect of Climate Change (Advisory Opinion), 2025 ICJ,* ¶ 271 - 300.
[61] *Pulp Mills Case, supra note 41.*

cooperative framework of both the NP and the CBD, undermining sustainable development and scientific collaboration. The proper treaty-conforming path is joint governance, not unilateral prohibition.

d. Anecoyon's refusal to consent to the rewilding project based on its opposition to de-extinction is inconsistent with the CBD's objectives

Anecoyon is internationally responsible for violating the object and purpose of the CBD by refusing prior informed consent for the de-extinction and rewilding of the Royal Panther, a project designed to restore a lost species and promote biodiversity recovery. Its refusal is based solely on ideological opposition to the concept of de-extinction, rather than on any legitimate scientific, legal, or ecological grounds. In doing so, Anecoyon has frustrated the CBD's binding obligation of conservation, sustainable use, and equitable cooperation, and thereby committed an internationally wrongful act.

i. Anecoyon's conduct constitutes a breach of its treaty obligations under the CBD

Under Articles 1, 8(f), and 9(c) of the CBD, States must promote the recovery of threatened species and adopt *ex-situ* conservation measures to support biodiversity restoration[62]. The de-extinction and rewilding of the Royal Panther falls squarely within these obligations, as they aim to restore an extinct species through scientifically validated methods and reintroduce it into protected habitats. By withholding consent to the project, Anecoyon obstructed a lawful conservation initiative that advances the very objectives the Convention seeks to achieve.

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[62] *Convention on Biological Diversity,* Articles 1, 8(f) and 9(c).

According to the ILC Articles 1 and 2 on Responsibility of States for Internationally Wrongful Acts, an internationally wrongful act arises when (i) a conduct attributable to a State, whether by act or omission, (ii) constitutes a breach of an international obligation.[63] Here, the refusal to consent to de-extinction, attributable to Anecoyon's Ministry of Natural Resources, directly violates its CBD obligations to conserve and restore biological diversity. The breach is clear, as Anecoyon's conduct impedes both *in-situ* and *ex-situ* conservation measures that the Convention requires States to promote.[64]

ii. The refusal is ideological, not legal or scientific

Anecoyon's diplomatic communications reveal that its rejection to the de-extinction project stems from ethical and policy objections -namely, that de-extinction "creates a moral hazard" and might "undermine support for conservation of existing species".[65] These arguments rest on ideological speculation, not empirical evidence. They disregard the scientific consensus that de-extinction techniques such as genome reconstruction and rewilding can enhance ecosystem resilience and strengthen genetic diversity.[66]

International environmental law requires reasoned decision-making grounded in science, not political or moral aversion. In the *Pulp Mills Case*, this Court emphasized that environmental

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[63] International Law Commission, *Draft Articles on responsibility of States for internationally wrongful act, 2001,* Vol. II, Part Two (2012), Articles 1 - 2.
[64] *Convention on Biological Diversity,* Article 2.
[65] *Record* ¶ 18.
[66] Colossal Biosciences, The Making of the Colossal Dire Wolves - World's First De-Extinction, YouTube, Apr 7, 2025 https://www.youtube.com/watch?v=F5uCuOwK_VE.

decisions must rely on scientific assessment and good-faith consultation.[67] Anecoyon's arbitrary refusal -unsupported by scientific uncertainty or risk assessment- breaches that standard of due diligence. It elevates ideology over evidence, thereby contravening the CBD's commitment to science-based conservation.

iii. The refusal also breaches customary principles of international environmental law

Several customary principles reinforce Ridus's position.

(i) The principle of intergenerational equity obliges States to manage natural resources to benefit both present and future generations.[68] By denying a project aimed at restoring lost biodiversity, Anecoyon undermines this duty and deprives future generations of an irreplaceable ecological asset.

(ii) Article 5 of the CBD codifies the duty to cooperate in conserving and sustainably using biodiversity.[69] Anecoyon's unilateral refusal to participate in a transboundary conservation initiative violates this obligation.

(iii) The principle of good-faith cooperation –affirmed in *Gabcíkovo-Nagymaros*[70] and *Pulp Mills*[71]– requires States to exchange information and consult before undertaking or opposing

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[67] *Pulp Mills Case, supra note 41.*
[68] *Obligations of States in respect of Climate Change (Advisory Opinion), 2025 ICJ,* ¶ 155 - 157.
[69] *Convention on Biological Diversity,* Article 5.
[70] *Gabčíkovo–Nagymaros, supra note 26.*
[71] *Pulp Mills Case, supra note 41.*

environmental measures. Anecoyon's categorical opposition, without meaningful consultation or scientific justification, breaches this principle.

Anecoyon's conduct satisfies all elements of State responsibility: *First*, it is attributable to a State organ (the Ministry of Natural Resources). *Second*, it violates a binding international obligation under the CBD and customary international law. And, *third*, it lacks any lawful justification, as it is grounded purely in ideological opposition rather than environmental necessity. Accordingly, Anecoyon bears international responsibility for breaching its treaty and customary duties. Its refusal to consent to the Royal Panther de-extinction and rewilding project contravenes the CBD's object and purpose, frustrates global efforts to restore biodiversity, and undermines the cooperative framework on which international environmental law rests. Ridus, therefore, respectfully submits that Anecoyon's refusal constitutes an internationally wrongful act under the CBD and customary international law, and that Ridus has acted consistently with its obligations in pursuing a legitimate, science-based conservation initiative.

2. Ridus did not violate international law regarding access and benefit-sharing obligations under the Convention on Biological Diversity and the Nagoya Protocol on Access and Benefit-Sharing

This section demonstrates that Ridus fully complied with its international obligations concerning ABS under the CBD and the NP. The de-extinction project of the Royal Panther involved no wrongful conduct: first, the use of DSI does not constitute "biotechnology" or "utilization of genetic resources" within the meaning of either treaty; second, even if DSI was considered biotechnology, the SAP is not a "user of DSI" in a listed commercial sector under CBD

Decision 16/2; and third, the project as a whole advances rather than violates the CBD's conservation and sustainable-use objectives. Consequently, no international responsibility can be attributed to Ridus.

a. DSI used for de-extinction is not biotechnology or utilization of genetic resources

Ridus bears no responsibility under international law because the use of DSI for the Royal Panther de-extinction project does not constitute "biotechnology" within the meaning of the CBD and the NP. Under Article 2 of the CBD, biotechnology is defined as "any technological application that uses biological systems, living organisms or derivatives thereof, to make or modify products or processes for specific use."[72] The NP, as a supplementary instrument to the CBD, regulates the access and utilization of genetic resources and requires PIC and ABS only when those resources are used through biotechnology –that is, through a physical or technological application on living or biological systems–.

To establish any internationally wrongful act, Anecoyon must prove both that: (i) DSI constitutes "biotechnology" within the meaning of CBD Article 2, and (ii) Ridus engaged in a "utilization of genetic resources" triggering ABS obligations under Articles 5 and 6 of the NP. Neither condition is met.

The DSI generated from the fossil of the Royal Panther does not constitute biotechnology under the CBD. Article 2 expressly requires the use of "biological systems" or "living organisms".[73]

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[72] *Convention on Biological Diversity,* Article 2.
[73] *Id.,* Article 2.

Because the fossilized material was non-living, and the resulting DSI –as defined by the Cali Fund Guide– was "the digital coding of an organism's genetic blueprint",[74] the activity involved reading information, not manipulating life. Sequencing and storing that code are acts of scientific research, not biotechnological modification. Educational and scientific sources classify biotechnology into distinct sectors -red (medical and pharmaceutical), green (agricultural), white (industrial), blue (marine), and yellow (nutritional)- each of which presupposes the active use of living organisms to generate tangible applications of products.[75] None of these branches encompasses de-extinction projects based solely on sequencing fossil DNA, as such activity does not involve the manipulation or modification of living matter but only the analysis of genetic data from long-extinct species.

Under CBD Article 12(b), Parties must "promote and encourage research which contributes to the conservation and sustainable use of biological diversity."[76] Ridus's conduct fits squarely within this mandate: sequencing served ecological restoration consistent with Articles 8(f) and 9(c), which encourage the "rehabilitation and recovery of threatened species and their reintroduction into their natural habitats."[77] Expanding "biotechnology" to include DSI would distort the CBD's textual meaning and object, converting permitted research into regulated commercial exploitation. Such an interpretation would contravene Article 31 of the VCLT, which requires good-faith interpretation according to a term's ordinary meaning in its context, object, and purpose.[78]

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[74] *Secretariat of the Convention on Biological Diversity, Guide to the Cali Fund (2025), Page 2.*
[75] Biomeducated, What Are the Types of Biotechnology? | Main Areas of Biotechnology Explained, YouTube, May 6, 2020, https://www.youtube.com/watch?v=00W4-2amvc8.
[76] *Convention on Biological Diversity,* Article 12(b).
[77] *Id*. Articles 8(f) and 9(c).
[78] *VCLT, supra note 16,* Article 31.

If the conduct in question falls outside the norm's scope, there is no breach. The normative element of "biotechnology" under the CBD entails a technological application to living systems; the factual element of Ridus's behavior is the digitalization of fossil DNA, an activity preceding and distinct from biotechnology. Thus, the alleged link between conduct and breach is unfounded –the act does not meet the definition of the prohibited behavior–. Furthermore, Ridus's purpose was consistent with the CBD's conservation objectives, not commercial exploitation. The NP was never intended to apply to de-extinction or restoration projects.

Consequently, Ridus bears no responsibility. Imposing responsibility would require expanding the treaties beyond their negotiated scope, undermining the careful balance between access, research freedom, and conservation that forms the cornerstone of international biodiversity law.

b. Even if DSI constitutes biotechnology, the SAP is not a user of DSI under CBD Decision 16/2

i. The SAP's role is custodial, not a DSI-using activity

The SAP is not a user of DSI, and, therefore, falls outside the obligations of Decision 16/2. To be responsible for benefit-sharing, an entity's activities must fall within a sector benefiting from the use of DSI[79]. The SAP is a non-profit corporation whose object is animal welfare and conservation, not biotechnology.[80]

[79] *Record* ¶ 37.
[80] *Id.* ¶ 33 - 35.

The SAP is accredited by the World Association of Zoos and Aquariums ("WAZA")[81], having met stringent animal-welfare standards –the Five Domains model (nutrition, environment, health, and behavior)[82]– none of which involve exploiting sequence data. Any scientific or technological tools employed serve only to improve these welfare domains, not to generate commercial profit or products derived from DSI.

The research and sequence analysis forming part of the de-extinction project was executed earlier by Salols Co., a separate private company[83]. The SAP's function is limited to raising and housing the two panthers, alongside more than 300 other species, in accordance with its non-profit mandate.[84] Even if breeding was conducted, it would involve species other than the Royal Panther, and solely for conservation purposes. Consequently, the park's activities fall outside the sectors that benefit from DSI and carry no benefit-sharing obligation.

ii. The ISIC classification confirms SAP's non-eligibility

According to the International Standard Industrial Classification (ISIC) –section R ("Arts, entertainment and recreation"), division 91 ("Libraries, archives, museums and other cultural activities"), class 9103 ("Botanical and zoological gardens and nature reserves activities")– the operation of zoological gardens, including children's zoos and wildlife reserves, is listed under entertainment and recreation, not under biotechnology or breeding sectors.[85] Given the nature of

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[81] *Id.* ¶ 33.
[82] *World Ass'n of Zoos & Aquariums, Animal Welfare Strategy (2021).*
[83] *Id.* ¶ 29 and 31.
[84] *Id.* ¶ 33.
[85] United Nations, *International Standard Industrial Classification of All Economic Activities (ISIC), Revision 4*, Statistical Papers Series M No. 4 Rev.4, ST/ESA/STAT/SER.M/4/Rev.4 (2008).

the SAP's activities as a non-profit zoological institution, its operations do not benefit from DSI within the meaning of Decision 16/2.

c. The SAP is a non-profit conservation institution, not a commercial entity in a sector listed under Decision 16/2

The Decision explicitly targets for-profit actors whose commercial activities benefit from the use of DSI. Although the SAP collects admission fees, those revenues are reinvested in animal care and conservation programs.[86] The funds generated from panther-viewing charges are used exclusively for the animals' upkeep, and any surplus supports captive-breeding programs for other species.

Alongside its custodial role, the SAP also contributes to Ridus's long-term rewilding plan, which envisions the introduction of subsequent generations of the panthers into a state-owned protected area. The only future financial benefit anticipated is the eco-tourism component managed by Panthera community members, not by the SAP[87]. This confirms that the SAP's income and operations remain non-commercial and fully aligned with its public-interest mandate.

d. The de-extinction project contributes to the CBD's overarching goals of conservation and sustainable use

Ridus is not internationally responsible because the de-extinction project promotes, rather than undermines, the CBD's objectives by restoring biodiversity and fostering the sustainable use of ecosystems across transboundary landscapes.

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[86] *Record* ¶ 33 - 35.
[87] *Id.* ¶ 36.

The project represents a legitimate and progressive conservation initiative aligned with global restoration efforts. Article 1 of the CBD establishes three binding objectives: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising out of the utilization of genetic resources[88]. Articles 8(f) and 9(c) further oblige States to "rehabilitate and restore degraded ecosystems and promote the recovery of threatened species and their reintroduction into their natural habitats."[89] These provisions codify a positive duty to conserve biodiversity through active restoration, a norm reinforced by State practice and soft-law commitments to halt and reverse biodiversity loss by 2030 through ecosystem restoration.[90]

De-extinction technologies and rewilding initiatives operationalize that duty: they restore ecological balance, reintroduce keystone species, and strengthen transboundary biodiversity corridors. Contemporary scholarship in international biodiversity law confirms that the CBD has evolved from merely conserving existing species to imposing an affirmative obligation of ecological restoration, including, where necessary, the re-creation of functionally extinct species to restore ecological integrity.[91] De-extinction projects, therefore, constitute a lawful and legitimate extension of States' due diligence obligations under the CBD and related instruments.

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[88] *Convention on Biological Diversity,* Article 1.
[89] *Convention on Biological Diversity,* Articles 8 (f) and 9 (c).
[90] *Kunming-Montreal Global Biodiversity Framework, CBD COP Decision 15/4 (2022).*
[91] Arie Trouwborst & Jens-Christian Svenning, *Megafauna Restoration as a Legal Obligation: International Biodiversity Law and the Rehabilitation of Large Mammals in Europe*, 31 Rev. Eur. Comp. & Int'l Env't L. 182, 186–90 (2022).

Furthermore, de-extinction directly addresses the long-term ecological debt created by historic biodiversity loss. The principle of intergenerational equity, articulated in the CBD preamble[92] and reaffirmed in the Court's *Advisory Opinion regarding Obligations of States in Respect of Climate Change*[93], mandates States to preserve biodiversity for future generations. By reintroducing the Royal Panther, a species of cultural and ecological significance, Ridus restores a lost ecological function, enhances ecosystem resilience, and fosters cross-border biodiversity corridors.

Anecoyon's refusal to cooperate, grounded in moral or ideological objections rather than scientific or legal reasoning, impedes these conservation goals and contradicts the CBD's forward-looking, science-based mandate. Anecoyon may argue that de-extinction introduces artificial elements or uncertain risks. Yet the precautionary principle –recognized in the CBD preamble and Article 14[94]– permits regulation of plausible risks of serious harm. It does not prohibit innovative conservation measures in the absence of such evidence. The Record contains no proof that Ridus's project causes measurable transboundary harm or violates the rights of any other State.

Accordingly, Ridus's actions fall within the CBD's legal framework for ecological restoration and contribute to sustainable biodiversity recovery. Far from being exploitative, the de-extinction initiative embodies the cooperative and restorative spirit of the CBD and the NP. It strengthens transboundary collaboration, promotes Indigenous participation, and fulfills the international community's shared commitment to reverse biodiversity loss.

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[92] *Convention on Biological Diversity,* Preamble.
[93] *Obligations of States in respect of Climate Change (Advisory Opinion), 2025 ICJ,* ¶ 155 - 157.
[94] *Convention on Biological Diversity,* Preamble and Article 14.

The evidence and applicable law confirm that Ridus did not violate its obligations under the CBD, the NP, or Decision 16/2. DSI used for the de-extinction project does not constitute biotechnology or utilization of genetic resources. Alternatively, the SAP is not a user of DSI in any listed commercial sector. The de-extinction project itself advances the CBD's conservation and sustainable-use objectives. Imposing responsibility on Ridus would expand these treaties beyond their negotiated scope, undermining the balance between access, scientific research, and conservation that anchors international biodiversity law.

Ridus, therefore, remains fully compliant with its obligations under international law.

CONCLUSION

Ridus requests the Court to adjudge and declare that: (1) Ridus did not violate international law with respect to the Prior Informed Consent provisions of the Convention on Biological Diversity and the Nagoya Protocol on Access and Benefit-Sharing; and (2) Ridus did not violate international law regarding Access and Benefit-Sharing obligations under the Convention on Biological Diversity and the Nagoya Protocol on Access and Benefit-Sharing.

Respectfully submitted,

Agents of Respondent