

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In Re Petition of Marginalised Affected Property
Owners,
Applicant,

For an Order Granting Leave to Issue Subpoenas To
BSG Resources Ltd., Alvarez & Marsal Holdings,
LLC, and Cleary Gottlieb Steen and Hamilton LLP
for Taking of Discovery Pursuant to 28 U.S.C. § 1782

Civil Action No. 1:21-mc-00681

**[Proposed] Order Granting Leave
to Issue Subpoena for Taking of
Discovery Pursuant to 28 U.S.C. §
1782**

Applicant Marginalised Affected Property Owners (MAPO) moved this Court for an Order granting leave to issue subpoenas to obtain discovery from Respondents BSG Resources Ltd., Alvarez & Marsal Holdings, LLC, and Cleary Gottlieb Steen and Hamilton LLP (“Respondents”), pursuant to 28 U.S.C. § 1782.

The Court hereby GRANTS Applicant leave to serve Respondents with the discovery subpoena annexed as Exhibit B. The Court finds that the requirements of § 1782 are met. First, Respondents reside or may be found in the Southern District of New York. Second, the discovery sought is for use in a proceeding before a foreign tribunal. Third, as a plaintiff in said proceeding, MAPO is an “interested person” within the meaning of 28 U.S.C. § 1782.

Additionally, the Court finds that the discretionary factors set out by the United States Supreme Court in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004), weigh in favor of granting the petition. Those factors are: (1) whether the person from whom discovery is sought is a party in the foreign proceeding; (2) the nature of the foreign tribunal, the character of the proceedings underway abroad, and the receptivity of the foreign tribunal to federal-court assistance; (3) whether the request conceals an attempt to circumvent foreign proof-gathering restrictions or

other policies of a foreign country or the United States; and (4) whether the request is unduly intrusive or burdensome. *See Intel*, 542 U.S. at 264-65.

Here, the *Intel* factors favor granting this petition: (1) Respondents are not parties in the foreign proceeding; (2) the Sierra Leone court adjudicating the proceeding will be receptive to evidence obtained through § 1782 discovery; (3) this request does not conceal an attempt to circumvent foreign proof-gathering restrictions but is a good-faith effort to obtain highly probative and relevant information; and (4) the discovery sought is not unduly intrusive or burdensome. *See Intel*, 542 U.S. at 255-56.

Accordingly, it is HEREBY ORDERED that the Application is GRANTED.

It is FURTHER ORDERED that Applicant will have leave to serve Respondents with the discovery request annexed to the Application in support of the § 1782 petition as Exhibit B.

IT IS SO ORDERED.

DATED: _____

UNITED STATES DISTRICT JUDGE