BRIEF OF AMICUS CURIAE EARTHRIGHTS INTERNATIONAL

Case Number on Appeal:

2019.Appeal.Tzi No. 1466

Taiwan Supreme Court

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EarthRights International (the "Amicus" or "EarthRights") respectfully submits this brief and requests that the honorable Court consider Amicus's presentation of a comparative law perspective, specifically focused on U.S. jurisprudence on jurisdiction in suits involving transnational torts, as a resource for the Court in considering the appropriateness of exercising jurisdiction over defendants, including Formosa Plastics Corporation.

I. Introduction and Description of the Amicus Curiae and its Interests

EarthRights International is a nonprofit legal organization that litigates and advocates on behalf of victims of human rights and environmental abuses worldwide. EarthRights frequently litigates transnational tort cases against multinational corporations in U.S. courts, which often involve legal questions similar to those present in this case, including jurisdictional challenges, as well as challenges based on the doctrine of *forum non conveniens*. S*ee, e.g., Wiwa v. Shell Petroleum Dev. Co. of Nigeria, Ltd.*, 335 F. App'x. 81 (2d Cir. 2009); *Acuna-Atalaya v. Newmont Mining Corp.*, 765 F. App'x. 811 (3d Cir. 2019); *Carijano v. Occidental*, 643 F.3d 1216 (9th Cir. 2011). Additionally, *forum non conveniens* is a doctrine that has been developed predominantly in the United States and the United Kingdom, and Amicus is interested in ensuring that foreign courts that adopt the doctrine do so with a full understanding of its limits in U.S. law. EarthRights also supports litigation outside the United States, including, but not limited to, filing Amicus Curiae briefs on issues within our area of expertise where a comparative law or international law analysis may be relevant.

Amicus also notes that a lawyer working for EarthRights filed a related a case against Formosa Plastics Corporation, U.S.A., and Formosa Plastics Corporation in the District Court of New Jersey for their role in the injuries at issue here. That case was voluntarily dismissed pursuant to an agreement of the parties and an understanding that Taiwan is a preferable forum to hear these claims. *Do v. Formosa Plastics Corp., U.S.A.*, 2:19-cv-14390-ES-ESK (D.N.J. Apr. 17, 2020). If,

however, this case is dismissed from Taiwanese courts, Amicus may represent some of the plaintiffs from this case in further litigation in the United States.

II. Statement of the Issue addressed by *Amicus Curiae*

Amicus first addresses the exercise of jurisdiction over domestic defendants in cases involving wrongful conduct that occurred wholly, or partially, in a foreign country. Amicus notes that scholars have found international and comparative law relevant in Taiwanese courts. *E.g.,* David S. Law, *Judicial Comparativism and Judicial Diplomacy*, 163 U. Pa. L. Rev. 927, 977-80 (2015). To the extent that comparative law is useful to this Court's analysis, Amicus writes to explain how these jurisdictional issues would be addressed under U.S. law, and in particular, Amicus suggests that an exercise of jurisdiction over the Taiwan-based defendants in this case would be consistent with U.S. jurisprudence and unlikely to contravene "international" jurisdiction, as the High Court found.

Amicus specifically provides a comparative law perspective on the reasonableness of exercising jurisdiction in this case over the corporate members of the Formosa Plastics Group located in Taiwan by outlining applicable U.S. jurisdiction tenets. Under U.S. law, jurisdiction would exist over all U.S.-based corporations. U.S. courts may also exercise jurisdiction over foreign corporations that have sufficient contacts with the forum and foreign-based subsidiaries that are found to be "alter-egos" of the domestic corporations. If a U.S. court found that it could not maintain jurisdiction over foreign defendants, it would still retain the action against any domestic defendants.

As a secondary matter, Amicus addresses the *forum non conveniens* doctrine and shows that a U.S. court would most likely conclude that Taiwan is the appropriate forum to hear these claims. *Forum non conveniens* allows U.S. courts to dismiss a case only if there is an adequate alternative forum and a balance of public and private interest factors clearly point towards the foreign forum. Here, public sources provide ample evidence that Vietnam would not be an adequate forum.

III. Exercising jurisdiction over domestic corporations for tortious acts abroad is standard practice.

In the United States, as a rule, courts have jurisdiction to hear suits against their citizens and residents, including corporations. Jurisdiction exists over corporations that are incorporated in, or headquartered in, the forum – even for acts committed elsewhere. *See Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014). This exercise of jurisdiction is termed "general" as it allows courts to hear "any and all claims" against such a corporation because its decision to base itself in the forum makes it fair to subject that corporation to jurisdiction in that forum. *See Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011); *Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437, 444–45 (1952). The underlying theory behind an exercise of general jurisdiction is that such corporations are "at home" in the forum and have submitted themselves to the laws of the forum. *See Goodyear Dunlop Tires Operations,* 564 U.S. at 919. Exercise of jurisdiction over a corporation where it is incorporated or has its headquarters is so fundamental that it is very rarely challenged by corporate defendants, including where the tortious conduct occurred abroad. For example, in *Carijano v. Occidental Petroleum Corp.*, a California court execised jurisdiction over the corporate defendant which was headquartered in its district for tortious pollution of river water from oil production with "out-of-date methods" by its Peruvian subsidiary in Peru. 643 F.3d 1216, 1222-24 (9th Cir. 2011). While the corporate defendant in *Carijano* did not dispute that it was subject to jurisdiction, the Court did note that California was "the defendant's home jurisdiction, and a forum with a strong connection to the subject matter of the case." *Id.* at 1229. The exercise of jurisdiction by Taiwanese courts over any defendant that is incorporated in Taiwan, or has its headquarters in Taiwan, would thus be wholly consistent with U.S. jurisprudence in similar cases. While Amicus is focusing in particular on the corporate defendants in the brief, Amicus notes that jurisdiction would also be proper over any individual defendant who resides in Taiwan. *See Goodyear Dunlop Tires Operations*, 564 U.S. at 924.

IV. Under the U.S. approach, jurisdiction may also be appropriate over foreign-based subsidiaries.

There are also circumstances in which United States courts can exercise jurisdiction over foreign-based corporations if they have sufficient contacts with the forum and the tortious activity arose out of those contacts, even if the tort itself occurred elsewhere. "Specific" jurisdiction is a fact-based determination looking at all of the contacts between the defendant and the forum. Minimum sufficient contacts exist when the defendant "continuously and deliberately" engages in activities in the forum state, *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 780-81 (1984), or otherwise creates "continuing relationships and obligations" with citizens of the forum state, *Travelers Health Ass'n v. Virginia*, 339 U.S. 643, 647 (1950). Notably, specific jurisdiction does not require the physical presence of the defendant within the forum state, but can instead be based on mail and communication with forum residents. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476 (1985). In *Burger King*, the U.S. Supreme Court found jurisdiction over out-of-state corporate franchisees based on the fact that decision-making was done at the corporate headquarters in the forum and then communicated to franchise subsidiaries by mail and telephone. *Id.* 471 U.S. at 480-81. Thus, U.S. courts could find specific jurisdiction over foreign-based corporations that repeatedly, and deliberately, communicate and coordinate with forum-based corporations, when the claims arise out of that activity. *See, e.g., Universal Leather, LLC v. Koro AR, S.A.*, 773 F.3d 553, 562 (4th Cir. 2014) (finding court had jurisdiction over Argentine corporation with repeated communication and business visits to forum-based corporation).

Additionally, U.S. courts can exercise jurisdiction over a parent corporation's subsidiary where the subsidiary is considered the alter-ego of the parent. *E.g., Ranza v. Nike, Inc.*, 793 F.3d 1059, 1071 (9th Cir. 2015). Determining whether a subsidiary is the alter-ego of a parent corporation is a fact-based inquiry, but essentially considers if the two entities are "a single enterprise." *See id.* at 1072. For example, courts have found jurisdiction exists over a foreign subsidiary of a New York

corporation where the subsidiary was wholly owned by the parent, there was a lack of corporate formalities, and the parent controlled the subsidiary's policies. *Hume v. Farr's Coach Lines, Ltd.*, No. 12-CV-6378-FPG, 2016 U.S. Dist. LEXIS 152802, at *16-27 (W.D.N.Y. Nov. 3, 2016); *see also Motown Record Co. v. iMesh.com, Inc.*, No. 03 Civ. 7339 (PKC), 2004 U.S. Dist. LEXIS 3972, at *8-17 (S.D.N.Y. Mar. 12, 2004) (finding jurisdiction over Israeli subsidiary as the alter ego of a corporation with systematic and continuous presence in New York). The necessary corporate formalities can include separate leadership and boards of directors, separate books and records, and adequate division of funds. *E.g. Bridgestone/Firestone v. Recovery Credit Servs.*, 98 F.3d 13, 18 (2d Cir. 1996). Thus, courts may find jurisdiction over foreign subsidiaries of a domestic corporation where there were "dual responsibilities of senior executives" and "common operational functions." *In re Chocolate Confectionary Antitrust Litig.*, 674 F. Supp. 2d 580, 614-17 (M.D. Pa. 2009). If that were true of any of the corporations here – such as Formosa Plastics Corporation and the other Formosa Group entities – then jurisdiction would be appropriate under the U.S. approach over the foreign subsidiaries.

V. Jurisdictional analysis is independent for each defendant; partial dismissal is appropriate if not all defendants are subject to jurisdiction.

Amicus observes that, in this case, some of the defendants are Taiwanese and others are not. In such a case, U.S. courts address the jurisdictional challenges of each defendant separately. *See e.g. Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 918 (2011) (finding jurisdiction over parent company Goodyear USA but dismissing the claims against foreign subsidiaries for lack of jurisdiction); *Freudensprung v. Offshore Tech. Servs.*, 186 F. Supp. 2d 716, 724 (S.D. Tex. 2002) (dismissing "Plaintiff's claims against Defendant WWA only," due to lack of personal jurisdiction, while "Plaintiff's remaining causes of action against all other Defendants remain intact").[1] Thus,

[1] In many such cases, jurisdiction over the locally-based corporation is accepted as evident by all parties and the court and can be inferred by continuing proceedings after the dismissal of one defendant for lack of jurisdiction. *E.g., Andresen v. Diorio*, 349 F.3d 8, 13, 18 (1st Cir. 2003) (dismissing independent foreign parent defendant and permitting claims to continue against local

even if there is no jurisdiction over foreign-based defendants, the appropriate course of action is not dismissal of the entire case, but rather dismissal of the claims against the foreign-based defendants and continuation of claims against Taiwanese defendants.

VI. Dismissal under the doctrine of *forum non conveniens*, as applied in U.S. courts, is warranted only when there is an alternative forum that is both adequate and available to the plaintiffs.

Amicus's understanding is that the High Court did not dismiss this case on the basis of *forum non conveniens*. Nonetheless, if that doctrine is considered, Amicus provides some analysis of how it would be applied by U.S. courts.

Once a U.S. court determines it has jurisdiction, typically the only other restriction to the case proceeding is the doctrine of *forum non conveniens*. U.S. courts applying the doctrine may grant a defendant's request to dismiss an action if the court finds that there is a more "appropriate and convenient" forum for the claims in the case. *Sinochem Int'l Co. v. Malay. Int'l Shipping Corp.*, 549 U.S. 422, 425 (2007). This doctrine is always discretionary. *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 257 (1981).

In analyzing a motion to dismiss based on *forum non conveniens*, U.S. courts first consider whether there is an alternative forum that is available and adequate. If so, the court will determine how much deference a plaintiff's choice of forum deserves, and then balance the public and private interests involved. The defendant seeking dismissal on this basis bears the burden of showing that all the elements of the *forum non conveniens* analysis are met to merit dismissal. *Lacey v. Cessna Aircraft Co.,*

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defendant); *Estate of Thomson v. Toyota Motor Corp. Worldwide*, 545 F.3d 357 (6th Cir. 2008) (dismissing independent foreign subsidiary defendant for lack of jurisdiction and dismissing other claims under FNC); *Int'l Customs Assocs. v. Ford Motor Co.*, 893 F. Supp. 1251 (S.D.N.Y. 1995) (dismissing claim against independent international subsidiary for lack of jurisdiction and dismissing claim against domestic parent company for failure to state a claim); *In re Chocolate Confectionary Antitrust Litig.*, 674 F. Supp. 2d 580 (M.D. Pa. 2009) (dismissing claims against three foreign defendants for lack of jurisdiction and maintaining claims against two other foreign defendants as the alter egos of U.S. corporations).

862 F.2d 38, 43-44 (3d. Cir. 1988). "The mere fact that a case involves conduct or plaintiffs from overseas is not enough for dismissal." *Carijano v. Occidental Petroleum Corp.*, 643 F.3d 1216, 1224 (9th Cir. 2011).

a. An available and adequate alternative forum must be shown.

The defendant seeking dismissal must demonstrate that there is an adequate alternative forum available to hear the claims against it. *Piper Aircraft Co.*, 454 U.S. at 254 n.22. To show that an alternative forum is adequate, the defendant must demonstrate that "(1) the defendant is amenable to process there; and (2) the other jurisdiction offers a satisfactory remedy." *Carijano*, 643 F.3d at 1225. Even if the defendant is amenable to process and the subject of the litigation can be heard in that forum, "[s]uch a forum may nevertheless be inadequate if it does not permit the reasonably prompt adjudication of a dispute, if the forum is not presently available, or if the forum provides a remedy so clearly unsatisfactory or inadequate that it is tantamount to no remedy at all." *Abdullahi v. Pfizer, Inc.*, 562 F.3d 163, 189 (2d Cir. 2009).

If this case were being heard by a court in the United States, the defendants would bear the burden to demonstrate that Vietnam – or another identified forum – is both available and adequate to hear the claims against the defendants. First, defendants would have to show that Vietnamese courts could exercise jurisdiction over *all defendants* in the existing case. *See PT United Can Co. v. Crown Cork & Seal Co.*, 138 F.3d 65, 73 (2d Cir. 1998); *Saqui v. Pride Cent. Am. LLC*, 595 F.3d 206, 211 (5th Cir. 2010) (holding that alternative forum is available when "the entire case and all parties can come within the jurisdiction of that forum" (quotations omitted)). Second, defendants would have to show that Vietnam – or another forum – could provide plaintiffs with a satisfactory remedy.

Amicus has found no case where a U.S. court has found Vietnam to be an adequate, alternative forum. By contrast, multiple cases have concluded that Taiwanese courts are adequate for *forum non conveniens* purposes. *See, e.g.*, *Cheng v. Boeing Co.*, 708 F.2d 1406, 1410-11 (9th Cir. 1983); *Yao-*

Wen Chang v. Baxter Healthcare Corp., 599 F.3d 728, 734-37 (7th Cir. 2010); *Monolithic Power Sys. v. O2 Micro Int'l, Ltd.*, No. C 04-2000 CW, 2006 U.S. Dist. LEXIS 74341, at *13 (N.D. Cal. Oct. 3, 2006).

There is significant reason to doubt the adequacy of Vietnamese courts, particularly to hear a case such as this one. The United States government has recognized that "Vietnam lacks an independent judiciary." U.S. Dep't of State, 2019 Investment Climate Statements: Vietnam, https://www.state.gov/reports/2019-investment-climate-statements/vietnam/ (last visited May 13, 2020). The lack of independence stems from a lack of separation of powers among the various branches in the Vietnamese government: "[T]he judiciary was effectively under the control of the [Communist Party of Vietnam (CPV)] . . . Most, if not all, judges were members of the CPV and underwent screening by the CPV and local officials during their selection process to determine their suitability for the bench." U.S. Dep't of State, 2019 Country Reports on Human Rights Practices: Vietnam, https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/vietnam/ (last visited June 23, 2020). Corruption within the judiciary has also been noted as a "significant" risk "as nearly one-fifth of surveyed Vietnamese households that have been to court declared that they had paid bribes at least once." 2019 Investment Climate Statements: Vietnam. Low judicial salaries increase the risk of corruption. *Id.*

While generalized allegations of corruption or bias are not enough on their own to demonstrate a forum is not adequate, courts have found that such facts, in conjunction with specific evidence demonstrating prejudice to the plaintiff, are sufficient to deny *forum non conveniens* dismissal. *See, e.g.*, *Eastman Kodak Co. v. Kavlin*, 978 F. Supp. 1078, 1086-1087 (S.D. Fla. 1997) (denying dismissal due to evidence of corruption and specifically the defendant's involvement in manipulating proceedings in the foreign forum); *Tuazon v. R.J. Reynolds Tobacco Co.*, 433 F.3d 1163, 1179 (9th Cir. 2006) ("[I]n a particular case, the evidence may well support the conclusion that a legal system is so fraught with corruption, delay and bias as to provide 'no remedy at all.'").

Significantly, U.S. courts will also deny motions to dismiss on *forum non conveniens* grounds if there is danger to the plaintiffs in the proposed alternative forum. *See Presbyterian Church of Sudan v. Talisman Energy, Inc.*, 244 F. Supp. 2d 289, 335-336 (S.D.N.Y. 2003) (finding Sudan was not an adequate alternative forum because plaintiffs would "expose themselves to great danger" if forced to litigate their claims in Sudan).[2] In this case, Amicus understands that hundreds of people have already attempted to file cases against the Formosa defendants in Vietnam, but have had their lawsuits summarily rejected, without adequate due process protections, and others have been physically prevented by police and government officials from filing suit.[3] Outside the activities of the courts, the Vietnamese government has subjected reporters, bloggers, and activists to long prison terms for simply writing about the 2016 disaster and calling for accountability. Ex. A (*Do, et al. v. Formosa Plastics Corp., U.S.A., et al*, 2:19-cv-14390-ES-ESK, DE 3-2 (Expert Declaration of Tuong Vu in support of the plaintiffs' application to remain anonymous)) ¶¶ 13-20. In the related case filed against several Formosa Plastics Group defendants in the United States on the same matter – which, as noted above, has since been voluntarily dismissed by the parties on the understanding that Taiwan is the appropriate forum to hear these claims – the court allowed the Vietnamese plaintiffs to proceed using pseudonyms because of the risk to their safety if their identities were known as a part of this litigation. Ex. B (*Do, et al. v. Formosa Plastics Corp., U.S.A., et al*, 2:19-cv-14390-ES-ESK (D.N.J. Jan. 10, 2020)). In particular, the court noted, "the record indicates that Vietnamese citizens have been subject to violence and imprisonment as a result of speaking out against Defendants' actions." *Id. at* 2.

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[2] *See also In Re Chiquita Brands International, Inc. Alien Tort Statute and Shareholder Derivative Litigation*¸ No. 08-MD-01916-MARRA, at *5-11 (S.D. Fla. Nov. 29, 2016) (finding Colombia was not an adequate alternative forum because of risk of reprisals against plaintiffs who try to pursue claims involving abuse by paramilitary groups in Colombia); *Aldana v. Fresh Del Monte Produce, Inc.*, No. 01-3399-CIV-MORENO, 2003 U.S. Dist. LEXIS 26777, at *6 (S.D. Fla. June 5, 2003) ("[A] credible threat of retaliatory violence against Plaintiffs renders the Guatemalan forum insufficient as an adequate alternative forum.")

[3] Green Trees, Amicus Curiae Brief for the Lawsuit Filed Against Formosa Plastics Corporation (April 14, 2020).

Given this evidence of the lack of independence of the Vietnam courts, and persecution of those who have challenged Formosa in Vietnam, Amicus concludes that a U.S. court would very likely reject the notion that Vietnam is an adequate forum for this case.

b. Deference in favor of a plaintiff's choice of forum.

As a part of the *forum non conveniens* analysis, U.S. courts will also assess how much deference to give the plaintiff's choice of forum. There is a "strong presumption" in favor of the plaintiff's choice of forum which "may be overcome only when the private and public interest factors clearly point towards trial in the alternative forum." *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 255 (1981). *See also Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508 (1947) ("[U]nless the balance [of factors] is strongly in favor of the defendant, the plaintiff's choice of forum should rarely be disturbed."). The strong presumption against disturbing the plaintiff's choice of forum exists even when there are multiple plaintiffs, many of which are foreign. *See Carijano v. Occidental Petroleum Corp.*, 643 F.3d 1216, 1228-1229 (9th Cir. 2011) (applying strong presumption even when only one out of 25 plaintiffs was a domestic plaintiff). Foreign plaintiffs are given marginally less deference, as courts assume that when a plaintiff has chosen a forum outside their home forum, it will be less convenient. *Piper Aircraft Co.*, 454 U.S. at 255-256. However, when a foreign plaintiff chooses to sue a defendant in *its* home jurisdiction, the plaintiff is given greater deference as the choice of forum is understood to be motivated by legitimate reasons, including ensuring the ability to obtain jurisdiction over the defendant. *Shi v. New Mighty United States Trust*, 918 F.3d 944, 949-950 (D.C. Cir. 2019) (internal quotations omitted); *Iragorri v. United Techs. Corp.*, 274 F.3d 65, 72-73 (2d Cir. 2001). In this case, therefore, because the plaintiffs have chosen to sue in the home jurisdiction of most of the defendants, U.S. courts would give deference to that choice. Because of the strong presumption in favor of the plaintiff's choice of forum, dismissals for *forum non conveniens* are the exception, not the rule. *Dole Food Co. v. Watts*, 303 F.3d 1104, 1118 (9th Cir. 2002).

c. Balance of private and public interest factors.

If an adequate alternative forum is identified, the defendant must then demonstrate that the private and public interest factors weigh in favor of dismissal, taking into consideration the deference owed to the plaintiff's choice of forum. The private interest factors include those considerations of convenience for the parties such as the ease and cost of making evidence and witnesses available, potentially viewing the site of the harm, the ability to enforce the judgment, the ability to obtain a fair trial, and "all other practical problems that make trial of a case easy, expeditious and inexpensive." *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508 (1947). The public interest factors include those administrative burdens on the court, the interests of the two forums in the litigation, and the difficulties associated with applying foreign law. *See id.* at 508-509.

Amicus is not in a position to assess all of the factors for this case, but will note some facts that would be relevant to that analysis. In analyzing *forum non conveniens*, a U.S. court would consider whether the judgment could be enforced in the alternative forum. If a Vietnamese court does not have the ability to enforce a judgment against defendants because they do not have assets in Vietnam, the plaintiffs would likely need to return to Taiwanese courts for enforcement proceedings. Such a two-stage, two-forum litigation would waste judicial resources, serve neither forum's public interest, and cannot be considered "convenient." It counsels against dismissal. *See Carijano v. Occidental Petroleum Corp.*, 643 F.3d 1216, 1231-32 (9th Cir. 2011); *Lexington Ins. Co. v. Forrest*, 263 F. Supp. 2d 986, 995 (E.D. Pa. 2003).

Additionally, two of the individual defendants, Ruey-Hwa "Susan" Wang and Wen-Yuan "William" Wong, have already argued several times before U.S. courts that cases against them should be dismissed to Taiwan for resolution under the doctrine of *forum non conveniens*. *See Yueh-Lan Wang v. New Mighty U.S. Trust*, 322 F.R.D. 11, 25-26 (D.D.C. 2017); *Chen-Teh Shu v. Ruey-Hwa Wang*, No. 10-5302 (JMV), 2016 U.S. Dist. LEXIS 143222, at *26-51 (D.N.J. Oct. 17, 2016) (arguing that

disputes regarding the estate of the co-founder of the Formosa Plastics Group should be litigated in Taiwan as the more convenient forum despite involving disputed assets allegedly held in a D.C.-based trust). These defendants argued that it was most convenient for them to litigate in Taiwan.

Even if a court finds that the defendant has met its burden under the *forum non conveniens* analysis, courts often place conditions on dismissal of the case to ensure that the case can go forward in the alternative forum. These conditions can include requiring the defendant to agree to submit to jurisdiction in the alternative forum, waiving the statute of limitations, conditioning the dismissal upon the alternative forum accepting the case, or agreeing that any judgment rendered by the foreign court will be enforced. If there is any doubt about the ability of the plaintiffs to sue the defendants in the alternative forum, such conditions will be required. *See, e.g.*, *Carijano*, 643 F.3d at 1234-1236 (overturning a *forum non conveniens* dismissal where the lower court failed to impose justified conditions); *Calavo Growers of California v. Belgium*, 632 F.2d 963, 968 (2d Cir. 1980) (holding that *forum non conveniens* dismissal should have been conditioned on the Belgian courts accepting the case, and defendants submitting to jurisdiction in Belgium and waiving the statute of limitations); *Abad v. Bayer Corp. (In re Factor VIII or IX Concentrate Blood Prods. Litig.)*, 531 F. Supp. 2d 957, 983 (N.D. Ill. 2008) (ordering dismissal conditioned on defendants' agreement to satisfy any judgment rendered by an Argentinian court).

VII. Conclusion

Amicus conclude that jurisdiction over the Taiwan-based defendants and those who have sufficient contacts with Taiwan would be consistent with U.S. jurisprudence and is unlikely to contravene "international" jurisdiction. Additionally, the doctrine of *forum non conveniens,* as applied in U.S. courts, suggests Taiwan is the most appropriate forum to hear the claims in this case.