

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Perenco Ecuador Limited

v.

Republic of Ecuador

**(ICSID Case No. ARB/08/6)
Annulment Proceeding**

PROCEDURAL ORDER NO. 2

Members of the Committee

Professor Eduardo Zuleta, President of the *ad hoc* Committee
Professor Rolf Knieper, Member of the *ad hoc* Committee
Professor Mónica Pinto, Member of the *ad hoc* Committee

Secretary of the ad hoc Committee

Ms. Veronica Lavista

April 21, 2020

I. PROCEDURAL HISTORY

1. On February 21, 2020, the Committee issued its Decision on the Stay of Enforcement of the Award (the “**Decision on the Stay**”).

2. Paragraph 82(a) of the Decision on the Stay provides that:

“a. Respondent is ordered to provide the ad hoc Committee, within 60 days following this decision, with a letter signed by Ecuador’s Minister of Finance or the official having full authority to bind Ecuador, committing to pay the Award unconditionally, voluntarily and in full, within 60 days after the Committee decides on the Application for Annulment, if the Application for Annulment were not to be upheld in full or in part, and attesting that such payment shall not be subject to any enforcement proceedings or to the intervention of Ecuador’s courts.”

3. Paragraph 82(b) of the Decision on the Stay further provides that:

“b. If Ecuador were not to provide the letter under ¶ 82(a) with a text in form and substance satisfactory to the Committee within 60 days following the issuance of this decision, the stay shall be lifted if by such date or at any time thereafter Claimant has provided or provides the ad hoc Committee with a letter signed by an officer having full authority to bind Perenco S.A. committing to unconditionally, voluntarily and in full reimburse Ecuador for any payments received under the Award, within 60 days after the Committee decides on the Application for Annulment, if the Application for Annulment were to be upheld in full or in part and attesting that such payment shall not be subject to any enforcement proceedings or court intervention.”

4. On April 20, 2020, Respondent submitted a letter signed by Mr. Richard Martínez Alvarado, Minister of Economy and Finance of the Republic of Ecuador (the Ministry’s Letter”), stating as follow:

“To whom it may concern,

In my capacity as Minister of Economy and Finance of the Republic of Ecuador, in compliance with the Committee’s decision of February 21, 2020 in the arbitration proceeding ICSID No. ARB/08/06 between Perenco Ecuador Limited and the Republic of Ecuador, in case Ecuador’s application for annulment were not to be upheld in full or in part, the Republic of Ecuador commits to pay the Award unconditionally, voluntarily and in full, within 60 days counted as from the decision of the Committee on the application. for annulment, without such payment being

subject be subject to enforcement proceedings or to the intervention of Ecuador's courts.

*Sincerely,
[SIGNATURE]
Econ. Richard Martínez Alvarado
Minister of Economy and Finance
Republic of Ecuador”¹*

II. THE COMMITTEE’S CONSIDERATIONS

5. The Committee considers that the text of the Ministry’s Letter complies in form and substance with the requirement of paragraph 82(a) of the Decision on the Stay.
6. Considering that the order under paragraph 82(a) of the Decision on the Stay has been complied with by Ecuador, the stay of the award is maintained.
7. The Tribunal may revisit its decision to maintain the stay at any time during the proceedings if the circumstances so merit and unless otherwise indicated by the Committee, any lifting of the stay will require compliance by Perenco with paragraph 82(b) of the Decision on the Stay.

¹ Translation of the Tribunal. The original letter in Spanish provides as follows: “*De mi consideración: En mi calidad de Ministro de Economía y Finanzas de la República del Ecuador, en cumplimiento de la decisión del Comité del 21 de febrero de 2020 dentro del proceso arbitral CIADI N° ARB/08/6 entre Perenco Ecuador Limited y la República del Ecuador, en caso que la solicitud de anulación del Ecuador no sea aceptada por el Comité en todo o en parte, la República del Ecuador se compromete a pagar el Laudo incondicionalmente, voluntariamente y en su totalidad, dentro de un plazo de 60 días contados desde la decisión del Comité sobre la solicitud de anulación, sin que dicho pago se sujete a procedimientos de ejecución forzosa ni a la intervención de las Cortes ecuatorianas.*”

III. DECISION

The Committee, based on the above considerations, decides to continue the stay of enforcement of the Award.

[SIGNATURE]

Professor Rolf Knieper
Member of the *ad hoc* Committee
Date: April 21, 2020

[SIGNATURE]

Professor Mónica Pinto
Member of the *ad hoc* Committee
Date: April 21, 2020

[SIGNATURE]

Professor Eduardo Zuleta
President of the *ad hoc* Committee
Date: April 21, 2020