

The Arbitration Institute of the Stockholm Chamber of Commerce

SCC Case no. V 2015/063

NOVENERGIA 11- ENERGY & ENVIRONMENT (SCA), SICAR (Luxembourg) ("Claimant") v. KINGDOM OF SPAIN ("Respondent") (jointly the "Parties")

PROCEDURAL ORDER NO. 12

29 June 2017

On behalf of the Tribunal I wish to thank the Parties for a constructive and well-organized hearing in Stockholm during 12-15 June. The Tribunal considers it to be sufficiently briefed on the majority of the issues relevant for the determination of this case.

That being said, and as discussed during the last day of the Hearing, the Tribunal reserved its right to get back to the Parties with any issues that it would consider helpful if the Parties were able to elaborate further on in their Post-Hearing Briefs. In this respect the Tribunal wishes to emphasize that the issues raised by the Tribunal shall of course not be considered as an indication of how the Tribunal eventually will decide the case, but rather as an indication of what further information the Tribunal believes it needs at this stage in order to be able to properly assess any potential outcome. The Tribunal also wishes to point out that the issues set out below shall not restrain the Parties from structuring their Post-Hearing Briefs in the manner each Party deems most appropriate and to include such further issues that each Party deems relevant. That being said, the Tribunal reminds the Parties of the common understanding expressed during the last day of the Hearing that the Post-Hearing Briefs should be kept relatively short (albeit that the Parties did not feel comfortable in committing to a specific page limit).

The Tribunal's issues are the following:

- I. The Tribunal would appreciate to have a precise clarification as to the actual financial impact of the Measures on the Claimant's investment. In so far as possible, such analysis should seek to clarify the impact of the individual Measures enacted in 2010, 2012, 2013 and 2014. Specifically, the Tribunal would like to better understand the impact (if any) that the Measures have had on the Claimant's revenues in comparison with the Claimant's costs in the given period(s) of time.

2. The Tribunal would also appreciate if the Parties could clarify the weight and the relevance of the 7% tax introduced by Law 15/2012 on the Respondent's alleged breach of the Energy Charter Treaty and on the Claimant's claim for damages.
3. Considering that the Isolux, Charanne and Eiser awards are on the record of this arbitration (Exhibits RL-46, RL-72 and CL-162), the Tribunal would find it useful if the Parties could elaborate on what they consider to be the more precise factual and legal differences and similarities of those cases in relation to the present arbitration. Specifically, the Tribunal would like to better understand differences and similarities in the alleged impact that the Measures had (or did not have), on the one hand, on the Claimants in the Isolux, Charanne and Eiser awards and, on the other hand, the impact they had on the Claimant in the present arbitration.

As discussed during the last day of the Hearing, the Parties have the opportunity to submit corrections to the transcripts from the Hearing. Any such corrections shall be submitted by the Parties on Friday, 7 July 2017 at the latest.

Considering that the Parties have now been provided with the Tribunal's questions, the Parties are asked to submit no later than on Tuesday 4 July 2017 an agreed proposed deadline for Post-Hearing Briefs, which should preferably not go beyond mid-August, as well as a potential page-limit for such Post-Hearing Briefs. On the basis of the deadline for Post-Hearing Briefs, the Tribunal will decide on a deadline for the cost submissions and request an extension with the SCC for rendering a final award.

Stockholm, 29 June 2017



Johan Sidklev

On behalf of the Tribunal