

Letter to the Parties

Dear Mesdames, dear Sirs:

The Arbitral Tribunal refers to Procedural Order No. 21 of 2 May 2013, in which it modified the Timetable and suspended deadlines relating to the period after the issuance of the Final Verification Report.

The Final Verification Report having now been issued and submitted to the Parties on 5 September 2013, and after having deliberated how to take things forward, the Arbitral Tribunal has decided to proceed on the basis as set out in Procedural Orders No. 15 and 17 of 20 November 2012 and 8 February 2013 respectively while re-adjusting the relevant deadlines.

Consequently, the next steps of the proceedings are as follows:

2C	7 November 2013 (9 weeks)	Claimants	Reply on Respondent's Memorial on Phase 2 (CL ReplyMP2)	PO No. 12, para & PO No. 15, paras -43-44
	+ 9 weeks as of receipt of Spanish CL ReplyMP2	Respondent	Rejoinder on Claimants' Reply Memorial on Phase 2 (RSP RejMP2)	PO No. 12, para 6 & PO No. 15, paras 43-44
	+ 4 weeks as of receipt of English RSP REjMP2 (TBC)	Claimants	Rejoinder Memorial on Jurisdiction regarding new arguments or documents, if any	PO No. 12, para 6 & PO No. 15, para 45
	June 2014 (TBC)	ALL	Hearing on Phase 2 (Hearing P2)	PO No. 12, para 8 & PO No. 15, para 46
	TBD	Claimants & Respondent	Post-Hearing Briefs	PO No. 12, para 9
	TBD	Tribunal	Decision on Phase 2	

As concerns the hearing, all arbitrators would be available during the month of June 2014 and therefore suggest holding the hearing during that period. The Arbitral Tribunal hereby invites the Parties and their Counsel to consult and confirm on which dates during that period they would be available for the hearing. Without prejudice of the Parties' views on the matter, the Arbitral Tribunal at present estimates that the duration of two weeks originally envisaged should be sufficient.

As concerns the upcoming written Memorials, in view of the recent issues relating to the updating of the Database and the findings of the Final Verification Report, the Arbitral Tribunal would consider it helpful if the Parties could address in their Memorial the following questions:

- (i) What use, if any, should the Arbitral Tribunal make of the Database?  
In particular,

- Which form of the Database should – if at all - be used? I.e., the source Database, the online Database, and/or the Database in Access, Excel or Pdf format?
  - Which version of the Database should – if at all – be used? I.e., the version as approved in the Decision on Jurisdiction and Admissibility, or any subsequent version?
  - What should be the purpose and object of any such use? And, in particular, what is – if any – the evidentiary value of the information contained in the relevant form and version of the Database?
- (ii) In case the Arbitral Tribunal were to decide to make certain use of the Database, how should it deal with the issues spotted in the Final Verification Report?  
In particular, should Claimants be provided with an opportunity to fix these issues by amending, correcting or complementing the current Database?
- If so, when and how should this be done?
  - If not, what are the consequences thereof on the use and evidentiary value of the relevant form and version of the Database?
  - Do the answers to these questions require distinguishing between different kinds of issues?
- (iii) Should access to the source Database and/or the original underlying documents be provided to Respondent and/or the Arbitral Tribunal?

The Arbitral Tribunal understands that these questions are interconnected and may not be dealt with separately or in the order as mentioned above. The purpose of these questions is to illustrate some of the questions the Arbitral Tribunal currently has regarding the Database and to provide the Parties with an opportunity to address the relevant issues.

These questions are not meant to limit the scope of the Memorials as determined in Procedural Order No. 15 (paras 43-45) and the Parties remain free to deal with further relevant issues in accordance with the principles set out in said Procedural Order No. 15.

The Arbitral Tribunal is also aware that some of these questions may already have been addressed by the Parties in past correspondence and/or submissions. In view of the issuance of the Final Verification Report, the Arbitral Tribunal however considers that the Parties should be given and should take the opportunity to update their respective positions where necessary or appropriate.

Best regards

[signed]

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Pierre Tercier, President

On behalf of the Arbitral Tribunal

An Individual Statement of Dr. Santiago Torres Bernárdez is attached.