



INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

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**Byemail**

December 21, 2011

Abaclat and others  
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Ms. Abby Cohen Smutny,  
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and

c/o Avv. Vittorio Grimaldi and  
Avv. Paolo Marzano  
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and

c/o Dr. José Alfredo Martínez de Hoz, Jr.,  
Dra. Valeria Macchia and Dra. Jimena  
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Argentine Republic  
c/o Dra. Angélica María Esther Abbona  
Procuradora del Tesoro de la  
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and

Mr. Jonathan I. Blackman,  
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New York, NY 10006

**Re: Abaclat and others v. Argentine Republic  
(ICSID Case No. ARB/07/5)**

Dear Mesdames and Sirs,

On September 15, 2011, the Argentine Republic, Respondent in the above case, submitted a *Request for the Disqualification of President Pierre Tercier and arbitrator Albert Jan van den Berg* (the Request).

The Request was submitted pursuant to Articles 14 and 57 of the ICSID Convention and Rule 9 of the ICSID Arbitration Rules. Pursuant to Article 57, a party may propose the disqualification of an arbitrator on account of any fact indicating a manifest lack of the qualities required by Article 14(1).

Pursuant to Article 58 of the ICSID Convention and ICSID Arbitration Rule 9, it falls upon the Chairman of the ICSID Administrative Council to decide the Request.

December 21, 2011

By letter of October 28, 2011, the parties were informed of my decision to seek a recommendation on the Request from the Secretary-General of the Permanent Court of Arbitration at The Hague. By same letter, the parties were reminded that this request was exceptional, that it should not be construed as a basis for any future similar request, and that the final decision on the Request would remain with the Chairman of the ICSID Administrative Council.

The parties have been given a full opportunity to present their positions on this matter and the Centre provided the Permanent Court of Arbitration with copies of all communications submitted by the parties following the filing of the Request and of the explanations furnished by the arbitrators whose disqualification is proposed.

The recommendation from the Secretary-General of the Permanent Court of Arbitration was received by ICSID on December 19, 2011. A copy of the recommendation is attached.

I have carefully considered the Request, in light of the parties' written arguments, the arbitrators' explanations, and the recommendation from the Secretary-General of the Permanent Court of Arbitration. Based on the materials submitted, I have reached the conclusion that the Argentine Republic's *Request for the Disqualification of President Pierre Tercier and arbitrator Albert Jan van den Berg* of September 15, 2011 does not meet the standard set forth in Article 57 of the ICSID Convention for the disqualification of an arbitrator.

Accordingly the Argentine Republic's *Request for the Disqualification of President Pierre Tercier and arbitrator Albert Jan van den Berg* is hereby rejected.

Sincerely yours,

Robert B. Zoellick  
Chairman of the Administrative Council

Attachment

cc (by email, with attachment):

Professor Pierre Tercier  
Professor Albert Jan van den Berg