



APPOINTMENT OF PRESIDING ARBITRATOR
pursuant to the Arbitration Rules of the United Nations
Commission on International Trade Law as revised in 2010 (the “**UNCITRAL Rules**”)

PCA Case N° AA641

CLAIMANT:

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RESPONDENT:

Plurinational State of Bolivia

Represented by:

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Hereinafter collectively referred to as the “**Parties**”

WHEREAS by Notice of Arbitration, dated 19 July 2016 and received by the Respondent on the same date, the Claimant commenced the present arbitration proceedings pursuant to Article 8 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Bolivia for the Promotion and Protection of Investments, signed on 24 May 1988 and entered into force on 16 February 1990 (the “**Treaty**”), and the UNCITRAL Rules;

WHEREAS Article 8 of the Treaty provides as follows:

(1) Disputes between a national or company of one Contracting Party and the other Contracting Party concerning an obligation of the latter under this Agreement in relation to an investment of the former which have not been legally and amicably settled shall after a period of six months from written notification of a claim be submitted to international arbitration if either party to the dispute so wishes.

(2) Where the dispute is referred to international arbitration, the investor and the Contracting Party concerned in the dispute may agree to refer the dispute either to:

(a) the International Centre for the Settlement of Investment Disputes (having regard to the provisions, where applicable, of the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington DC on 18 March 1965 and the Additional Facility for the Administration of Conciliation, Arbitration and Fact-Finding Proceedings);
or

(b) the Court of Arbitration of the International Chamber of Commerce; or

(c) an international arbitrator or ad hoc arbitration tribunal to be appointed by a special agreement or established under the Arbitration Rules of the United Nations Commission on International Trade Law.

If after a period of six months from written notification of the claim there is no agreement to an alternative procedure, the parties to the dispute shall be bound to submit it to arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law as then in force. The parties to the dispute may agree in writing to modify these Rules.

WHEREAS by communications culminating in the Claimant’s letter dated 15 September 2016, the Parties agreed on the Secretary-General of the Permanent Court of Arbitration (the “**PCA**”) to act as appointing authority in this arbitration;

WHEREAS by e-mail of 15 December 2016, the co-arbitrators informed the Parties that, in light of the co-arbitrators’ inability to select a presiding arbitrator, the presiding arbitrator would have to be appointed by the Secretary-General of the PCA pursuant to Article 9(3) of the UNCITRAL Rules;

WHEREAS by letter dated 21 December 2016, the Claimant requested that the Secretary-General of the PCA appoint the presiding arbitrator in this arbitration in accordance with Article 9(3) of the UNCITRAL Rules;

WHEREAS by letter dated 22 December 2016, the PCA invited the Respondent to submit any comments it may have on the Claimant’s Request. The PCA also invited the Parties to agree to the use of a modified list-procedure whereby the Parties would each delete no more than five (5) names from a list of eleven (11) candidates and to submit comments on the desired profile of the presiding arbitrator;

WHEREAS by their respective letters of 3 January 2017, the Parties agreed to the modified list-procedure proposed by the PCA and provided comments concerning the desired profile of the presiding arbitrator;

WHEREAS by letter dated 6 January 2017, the Claimant submitted further comments on the desired profile of the presiding arbitrator;

WHEREAS by letter dated 17 January 2017, the PCA communicated to the Parties a list with the names of eleven (11) prospective presiding arbitrators, together with the candidates' *curricula vitae* and their respective declarations of impartiality and independence, requesting that the Parties return the list by no later than 1 February 2017, after having deleted no more than five (5) names to which they objected and numbered the remaining names in the order of their preference;

WHEREAS by letter dated 27 January 2017, the Respondent raised matters concerning the inclusion of a particular name on the list of prospective presiding arbitrators;

WHEREAS by letter dated 29 January 2017, the Secretary-General decided to withdraw the list circulated to the Parties with the PCA's letter dated 17 January 2017, in light of the matters raised by the Respondent in its letter of 27 January 2017;

WHEREAS by letter dated 30 January 2017, the Claimant submitted comments on the matters raised by the Respondent in its letter of 27 January 2017;

WHEREAS by letter dated 2 February 2017, the PCA reiterated that it would circulate a new list of candidates to the Parties shortly;

WHEREAS by letter dated 6 February 2017, the Respondent submitted comments on the PCA's letter of 2 February 2017;

WHEREAS by letter dated 8 February 2017, the Claimant submitted comments in response to the Respondent's letter of 6 February 2017;

WHEREAS by letter dated 9 February 2017, the PCA communicated to the Parties a new list with the names of eleven (11) prospective presiding arbitrators, together with the candidates' *curricula vitae* and their respective declarations of impartiality and independence, requesting that the Parties return the list by no later than 24 February 2017, after having deleted no more than five (5) names to which they objected and numbered the remaining names in the order of their preference;

WHEREAS on 24 February 2017, the Parties returned the list to the PCA with their respective preferences as to the prospective presiding arbitrators;

NOW THEREFORE I, Hugo H. Siblesz, Secretary-General of the PCA and appointing authority in the above-referenced matter:

- (1) having had due regard for the provisions of the Treaty and the UNCITRAL Rules;
- (2) having established to my satisfaction my competence to appoint the presiding arbitrator in this matter;
- (3) having ascertained from the person named below that he is available and willing to act in this matter; and
- (4) having obtained from the person named below a declaration that he is impartial and independent with respect to each of the Parties and intends to remain so;

HEREBY APPOINT as presiding arbitrator in the above-referenced matter:

Prof. Ricardo Ramírez Hernández
Islote 71
Colonia Las Aguilas, C.P. 03100
Mexico, D.F.
Mexico

Done at The Hague on 28 February 2017.



Hugo H. Siblesz
Secretary-General