

**International Centre for
Settlement of Investment Disputes**

GIOVANNA A BECCARA AND OTHERS

Claimants

v.

THE ARGENTINE REPUBLIC

Respondent

ICSID Case No. ARB/07/05

Procedural Order No. 1

Rendered by an Arbitral Tribunal composed of:

Dr. Robert Briner, President

Professor Albert Jan van den Berg, Arbitrator

Professor Georges Abi-Saab, Arbitrator

Secretary of the Arbitral Tribunal: Mr. Gonzalo Flores

CONSIDERING:

- (A) The “List of issues to be addressed during the jurisdictional first phase of the proceedings” of 9 May 2008, containing 11 specific issues the Arbitral Tribunal requested the Parties to address during the jurisdictional phase;
- (B) The amended procedural calendar of 9 May 2008, according to which the Respondent filed its Memorial on Jurisdiction on 8 August 2008 and the Claimants filed their Counter-Memorial on Jurisdiction on 7 November 2008;
- (C) The Redfern Schedules and explanatory letters submitted by each Party in relation to remaining objections to the other Party’s requests for production of documents of 5 December 2008;
- (D) That regardless of what the role and relevance of Task Force Argentina (“TFA”) are in the present proceeding, for the purposes of production of documents, TFA is a third party to this arbitration and not a claimant; therefore, the Claimants may not be ordered to produce documents which might be in TFA’s possession, custody or control, unless the Respondent can prove that the Claimants have immunized documents from discovery by depositing them with TFA or having TFA collect them;
- (E) ICSID Convention Article 43(a) which provides that “[e]xcept as the parties otherwise agree, the Tribunal may, if it deems it necessary at any stage of the proceedings, call upon the parties to produce documents or other evidence;”
- (F) ICSID Arbitration Rule 34(2)(a) which provides that “[t]he Tribunal may, if it deems it necessary at any stage of the proceedings: call upon the parties to produce documents, witnesses and experts;”

THE ARBITRAL TRIBUNAL HEREBY DECIDES AS FOLLOWS:

1. The Parties are requested to comply with the Arbitral Tribunal's rulings on the Parties' requests for production of documents set forth in Annex A attached to this Order on or before Monday, 22 December 2008;
2. To the extent requests to produce documents are granted, the Parties are directed to provide an accompanying table, indicating the produced documents and to which request(s) each document is responsive.

Date: 12 December 2008

On behalf of the Arbitral Tribunal

A handwritten signature in black ink, appearing to read 'R. Briner', is written over a horizontal line.

Robert Briner,
President

ICSID Case No. ARB/07/05

Giovanna a Beccara and others v. The Argentine Republic

Annex A to Procedural Order No. 1

A. Arbitral Tribunal's Ruling on Claimants' Requests for Production of Documents

Claimants' Request No.	Suggested Tribunal's Decision	Comment
1-a	Denied (lack of relevance).	Respondent does not dispute that it issued debt in compliance with Argentine law.
1-b	Denied (lack of relevance).	Respondent does not dispute that it issued debt in compliance with Argentine law.
2-a	Denied (undue burden).	
2-b	Denied (undue burden).	
2-c	Granted.	Respondent disputes that its bond issues were directed at Italian retail market.
2-d	Denied (undue burden and overly broad).	
2-e	Denied (undue burden and overly broad).	
2-f	Denied (undue burden and overly broad).	
2-g	Denied (undue burden and overly broad).	
2-h	Denied (undue burden and overly broad).	
2-i	Denied (undue burden and overly broad).	
2-j	Denied (undue burden and overly broad).	
2-k	Granted.	Respondent disputes that its bond issues were directed at Italian retail market.
2-l	Granted.	Respondent disputes that its bond issues were directed at Italian retail market.

Claimants' Request No.	Suggested Tribunal's Decision	Comment
2-m	Denied (undue burden and overly broad).	
2-n	Denied (undue burden and overly broad).	
2-o	Denied (undue burden and overly broad).	
3-a	Granted as offered by Respondent but not limited to the extent that Claimants identify exchanges with non-TFA banks.	Whether, according to Respondent, already in TFA's possession, custody or control, is not relevant.
3-b	Granted as offered by Respondent.	
3-c	Granted as offered by Respondent.	Whether, according to Respondent, already in TFA's possession, custody or control, is not relevant.
3-d	Granted as offered by Respondent.	Whether, according to Respondent, already in TFA's possession, custody or control, is not relevant.
3-e	Granted as offered by Respondent.	Whether, according to Respondent, already in TFA's possession, custody or control, is not relevant.
4.	Granted as offered by Respondent.	Whether, according to Respondent, already in TFA's possession, custody or control, is not relevant.
5.	Granted as offered by Respondent.	Whether, according to Respondent, already in TFA's possession, custody or control, is not relevant.
6.	Granted as offered by Respondent.	
7-a	Denied (vague and undue burden)	
7-b	Granted as offered by Respondent.	
7-c	Granted as offered by Respondent.	
7-d	Denied (vague)	
7-e	Denied (undue burden).	

Claimants' Request No.	Suggested Tribunal's Decision	Comment
8.	Granted as offered by Respondent.	
9-a thru 9-ff.	Granted as offered by Respondent.	Whether, according to Respondent, already in TFA's possession, custody or control, is not relevant.
10-a	Denied (lack of relevance).	Respondent does not contest that the 2001 moratorium treated all persons holding bonds or security entitlements in the same manner.
10-b	Denied (lack of relevance).	Respondent does not contest that the 2005 Exchange Offer treated all persons holding bonds or security entitlements in the same manner.
10-c	Denied (lack of relevance).	Respondent does not contest that the GGL conversion program treated all persons holding bonds or security entitlements in the same manner.
10-d	Denied (lack of relevance).	Respondent does not contest that the Cram Down Law treated all persons holding bonds or security entitlements in the same manner.
11. thru 17.	Denied (lack of relevance).	

B. Arbitral Tribunal's Ruling on Respondent's Requests for Production of Documents

Respondent's Request No.	Suggested Tribunal's Decision	Comment
1.	Granted as offered by Claimants.	
2.	Denied (not in possession, custody or control of Claimants).	
3.	Denied (not in possession, custody or control of Claimants).	
4.	Granted as offered by Claimants.	
5. thru 9.	Denied (not in possession, custody or control of Claimants).	
10.	Denied (privileged).	Privilege log not appropriate in relation to attorney-client privilege.
11.	Denied (privileged, lack of relevance, and not in possession, custody or control of Claimants).	Privilege log not appropriate in relation to attorney-client privilege.
12. thru 14.	Denied (lack of relevance and not in possession, custody or control of Claimants).	
15.	Granted as offered by Claimants.	
16.	Denied (lack of relevance and not in possession, custody or control of Claimants).	