

ICSID Case No. ARB/07/5

**ABACLAT AND OTHERS
(CLAIMANTS)**

and

**THE ARGENTINE REPUBLIC
(RESPONDENT)**

PROCEDURAL ORDER NO. 30

11 JUNE 2014

IN VIEW OF

- Procedural Orders No. 27 of 30 May 2014, No. 28 of 9 June 2014 and No. 29 of 10 June 2014, as well as the documents and correspondence referred to therein;
- Respondent's letter of 10 June 2014 sent to the Arbitral Tribunal directly;
- Claimants' letter of 10 June 2014 sent to the Arbitral Tribunal directly;

CONSIDERING

- that, in its letter of 10 June 2014, Respondent raised the following issues:
 - (i) Respondents objects to the Arbitral Tribunal's decision to call Prof. Edwards, notably because, according to Respondent, the Arbitral Tribunal should have then also called Prof. Stiglitz who discusses the same issues as Prof. Edwards;
 - (ii) Respondent indicates that (i) Prof. Roubini is only available on 17 June 2014, (ii) Prof. Eichengreen is only available by video-conferencing on 23 June 2014, and (iii) Mr. Ted Bloch seems to have health issues which prevent him from attending the hearing and Respondent is checking whether it is possible to arrange for a replacement;
 - (iii) Respondent requests the Arbitral Tribunal to confirm the limitation of the closing statements (i.e. 1.5 hours) and that the Parties be released with regard to the unused days of the hearing schedule;
 - (iv) Respondent requests that Prof. Edwards be placed on the hearing schedule before Respondent's corresponding economic experts, in accordance with the Parties' proposed joint agenda of 22 May 2014.
- that, in their letter of 10 June 2014, Claimants object to Respondent's letter and request that:
 - (i) Respondent's request to call Prof. Stiglitz be denied;
 - (ii) the line up as established under Procedural Order No. 29 be confirmed;
 - (iii) the Parties be ordered to cease all unsolicited correspondence in the final days leading to the hearing;
- that, in the same letter, Claimants state that should Respondent be granted the right to call Stiglitz, they reserve the right to call additional corresponding economic experts of their own;

CONSIDERING FURTHER

(i) As concerns Prof. Stiglitz

- that Respondent was given the opportunity to designate witnesses and experts for direct examination but decided by its letter of 4 June 2014 not to do so;
- that Respondent, in its last letter, has not made a formal request that Prof. Stiglitz be examined at the hearing;
- that, consequently, the Arbitral Tribunal does not see the need to issue any order in this regard;
- that the list of witnesses and experts to be heard at the hearing is final;

(ii) As concerns the hearing schedule

- that the Arbitral Tribunal takes notes of Respondent's indications as to the availability of Prof. Roubini, Prof. Eichengreen and Mr. Bloch;
- that, in keeping with the Parties' prior agreement, Prof. Edwards should be heard before Respondent's economic experts;
- that, in order to ensure the holding of the upcoming hearing, Prof. Roubini shall be examined on 17 June and Prof. Eichengreen on 23 June 2014;
- that, in view of Mr. Bloch's alleged state of health, the Arbitral Tribunal invites Argentina to confirm whether any of the members of Mr. Bloch's team as listed on p. 4 of his Report are available to replace Mr. Bloch;
- that, in view thereof, the Arbitral Tribunal approves the thereto related suggestions made by Respondent with regard to the hearing schedule;
- that the ICSID Secretariat is currently conferring with Dr. Wühler to see whether he would be available to attend the hearing on Friday 20 June 2014;
- that, in case Dr. Wühler is not available on Friday 20 June 2014, this day shall serve as deliberation time for the Arbitral Tribunal and the hearing will resume on Monday 23 June 2014 with the examination of Dr. Wühler, the replacement – if any – of Mr. Bloch and Prof. Eichengreen;
- that no hearing shall take place on Friday 27 June 2014;
- that the Arbitral Tribunal finds it prudent to keep Wednesday 25 and Thursday 26 June 2014 as reserve days;
- that the time limit for closing statements of 1.5 hours set out in Procedural Order No. 28 is hereby confirmed;
- that, therefore, the Hearing Schedule is modified as attached hereto;

(iii) As concerns other matters

- that the Parties are invited to refrain from sending any correspondence directly to the Arbitral Tribunal and are reminded to send correspondence via the ICSID Secretariat in accordance with the ICSID Rules;
- that, besides correspondence aiming at confirming the availability of Mr. Bloch's replacement, the Parties are invited to refrain from sending any further unsolicited correspondence to the Arbitral Tribunal before the commencement of the Hearing.

CONSEQUENTLY THE ARBITRAL TRIBUNAL DECIDES AS FOLLOWS:

A. As Concerns Prof. Stiglitz

- **The Arbitral Tribunal does not see the need to issue any order in this regard;**

B. As concerns the Hearing Schedule

- **The Hearing Schedule is modified as attached hereto, subject to the confirmation of the availability of Mr. Bloch's replacement and Dr. Wühler on the relevant days;**

C. As concerns other issues:

- **The Parties are invited to refrain from sending any correspondence directly to the Arbitral Tribunal and are reminded to send correspondence via the ICSID Secretariat in accordance with the ICSID Rules;**
- **Besides correspondence aiming at confirming the availability of Mr. Bloch's replacement, the Parties are invited to refrain from sending any further unsolicited correspondence to the Arbitral Tribunal before the launch of the Hearing.**

The decisions made in this Procedural Order have been made jointly by the majority of the members of the Arbitral Tribunal.

Dr. Torres Bernárdez has issued a separate 'Statement of Dissent', which is attached hereto.

[signed]

*Pierre Tercier,
President
On behalf of the majority of the Arbitral Tribunal*

Statement of Dissent of Dr. Santiago Torres Bernárdez to PO N° 30 of 11 June 2014

Without prejudice of the residual matters clause of P.O N° 27, I consider that in the light of the circumstances surrounding the adoption of PO N° 29 a proper compliance with the principle of the equal treatment of the Parties would have required the Tribunal to ask the Respondent whether or not it intends to call Professor Stiglitz at the hearing.

Signed: Santiago Torres Bernárdez

