

Bondholders Secure Another Victory at ICSID, as World Bank Rejects Argentina's Second Attempt to Disqualify Arbitrators

Nicola Stock, President of TFA, states: "The World Bank President has dismissed Argentina's latest attempt to sidetrack the proceedings. With the rejection of Argentina's second unfounded arbitrator challenge, the merits phase moves on to completion in 2014."

On 4 February 2014, the President of the World Bank, acting in his capacity as the Chairman of the ICSID Administrative Council, issued a decision rejecting a request by Argentina to disqualify two of the three Tribunal members. Argentina's request, filed on 19 December 2013, sought to remove the Tribunal President, Pierre Tercier, and Claimants' party-appointed arbitrator, Albert Jan van den Berg, on the grounds that a recent Procedural Order on final briefing and hearing deadlines allegedly was improper. The Italian bondholder Claimants had opposed Argentina's request on the grounds that it lacked any merit, and instead was an improper attempt by Argentina to prolong the proceedings.

In a thorough 20-page decision, the ICSID Chairman concluded that Argentina's request did not meet the disqualification standards under the ICSID Convention. This is the second time in the proceeding that Argentina has challenged the two members of the Tribunal—and the second time that the ICSID Chairman has rejected Argentina's disqualification attempt for lack of merit. Key elements of the ICSID Chairman's decision include:

- Rejected Argentina's request to refer the arbitrator challenge to the Permanent Court of Arbitration, because *"[t]he circumstances in this Proposal do not justify such a request."*
- Rejected Argentina's complaints about the Tribunal's Procedural Order, and confirmed that *"[t]he mere existence of an adverse ruling is insufficient to prove a manifest lack of impartiality or independence"—and, indeed, "[i]f it were otherwise, proceedings could continuously be interrupted by the unsuccessful party, prolonging the arbitral process."*
- Confirmed that *"[t]he Tribunal has addressed numerous requests from both parties and has issued an extensive number of procedural orders,"* and that *"[e]ach of the Tribunal's rulings has been rendered following thorough argument by each of the parties and due deliberation among the members of the Tribunal."*

Further to the decision, President Tercier and Arbitrator van den Berg retain their positions on the Tribunal. A copy of the decision, along with all of the Tribunal's Procedural Orders, is available for review on the TFA website, www.tfargentina.it/icsid.php. The next step in the proceeding is for Argentina to file its final submission on the merits and individual issues.

Dr. Nicola Stock, President of Task Force Argentina, states: *"The World Bank President agreed with the Italian bondholders that Argentina failed to articulate any valid basis to disqualify either arbitrator, and has dismissed Argentina's latest attempt to sidetrack the proceedings. With the rejection of Argentina's second unfounded arbitrator challenge, the merits phase moves on to completion in 2014."*

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This Press Release is issued further to the Tribunal's Confidentiality Order, which authorizes the publication of decisions and orders by the Tribunal and communications regarding the status of the proceeding. Italian bondholders participating in the ICSID arbitration may obtain information on the case by sending a request for information to info@tfargentina.it or consulting the website www.tfargentina.it. Any participating bondholders who revoke their participation in the cases against Argentina referenced above place the protection of their rights against Argentina at risk.

Rome, 10 February 2014