

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT
DISPUTES**

**Tethyan Copper Company Pty Limited (TCCA)
(Claimant)**

v.

**Islamic Republic of Pakistan
(Applicant)**

**(ICSID Case No. ARB/12/1)
Annulment Proceeding**

**ORDER OF THE COMMITTEE TAKING NOTE OF THE
DISCONTINUANCE OF THE PROCEEDING**

Members of the Committee

Prof. Joongi Kim, President of the *ad hoc* Committee
Ms. Carita Wallgren-Lindholm, Member of the *ad hoc* Committee
Judge Bernardo Sepúlveda Amor, Member of the *ad hoc* Committee

Secretary of the ad hoc Committee

Mr. Gonzalo Flores

Date: 6 January 2023

REPRESENTATION OF THE PARTIES

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I. INTRODUCTION AND PARTIES

1. This case concerns a dispute submitted to the International Centre for Settlement of Investment Disputes (“ICSID” or the “Centre”) on the basis of the 1998 Agreement between Australia and the Islamic Republic of Pakistan on the Promotion and Protection of Investments and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, which entered into force on 14 October 1966 (the “ICSID Convention”).
2. The Claimant is Tethyan Copper Company Pty Limited (TCCA), a company constituted and registered under the laws of Australia.
3. The Respondent is the Islamic Republic of Pakistan.
4. The parties’ representatives and their addresses are listed above on page (ii).

II. PROCEDURAL HISTORY

5. On 8 November 2019, Pakistan applied for the Annulment of the Award rendered on 12 July 2019 in the original arbitration in this case. In its Annulment Application, Pakistan requested, among other things, a provisional stay of enforcement of the Award in accordance with Article 52(5) of the ICSID Convention.
6. On 18 November 2019, in accordance with ICSID Arbitration Rules 50(2)(a)–(c), the Secretary-General of ICSID registered the Annulment Application and notified the parties of the provisional stay of enforcement of the Award.
7. On 11 February 2020, TCCA filed a request to terminate the stay of enforcement of the Award.
8. On 25 March 2020, in accordance with Article 52(3) of the ICSID Convention, the Secretary-General notified the parties that an *ad hoc* Committee appointed by the Chair of the Administrative Council had been constituted, composed of Prof. Joongi Kim (Republic of Korea), as President; Judge Bernardo Sepúlveda-Amor (United Mexican States), and Ms. Carita Wallgren-Lindholm (Republic of Finland). Prof. Kim, Judge Sepúlveda-Amor, and Ms. Wallgren-Lindholm are members of the ICSID Panel of Arbitrators, appointed by Korea, Mexico, and Finland, respectively.
9. On 2 April 2020, the Committee fixed a schedule for the parties’ further submissions on the stay of enforcement of the Award. The Committee also invited the parties to consider several dates for a First Session as well as the possibility of holding a hearing on the stay of enforcement of the Award.
10. In accordance with the fixed schedule, on 8 April 2020, Pakistan filed observations to TCCA’s request to terminate the stay of enforcement of the Award.
11. On 14 April 2020, TCCA filed a response to Pakistan’s observations on the request to terminate the stay of enforcement of the Award.
12. On 17 April 2020, Pakistan filed a reply to TCCA’s response of 14 April 2020.
13. On 29 April 2020, the Committee held a First Session with the parties and a Hearing on the Stay of Enforcement of the Award, via videoconference. Audio recordings and

transcripts of the First Session and Hearing were made and circulated to the parties and the members of the Committee.

14. On 11 May 2020, the Committee issued Procedural Order No. 1, establishing, among others, the procedural calendar for the parties' further submissions on Pakistan's Annulment Application.
15. On 26 June 2020, Pakistan filed a request for the Committee to decide on the admissibility of new evidence.
16. On 10 July 2020, TCCA filed observations on Pakistan's request of 26 June 2020.
17. On 17 July 2020, the Committee decided on the admissibility of new evidence.
18. On 1 August 2020, Pakistan filed its Memorial on Annulment.
19. On 17 September 2020, the Committee issued a Decision on the Stay of Enforcement of the Award.
20. On 20 October 2020, TCCA submitted a letter stating that Pakistan had failed to comply with the conditions set out in the Decision on the Stay of Enforcement of the Award and that the stay of enforcement should be lifted in the amount of 50 percent of the Award plus accrued interest, as envisaged in the Decision on the Stay of Enforcement of the Award.
21. On 27 October 2020, Pakistan submitted a response to the Claimant's letter of 20 October 2020.
22. On 30 October 2020, the Committee issued a Decision Partially Terminating the Stay of Enforcement of the Award.
23. On 31 October 2020, TCCA filed its Counter-Memorial on Annulment.
24. On 15 January 2021, Pakistan filed its Reply on Annulment.
25. On 16 February 2021, the Committee issued Procedural Order No. 2 concerning arrangements for the hearing on annulment.
26. On 14 March 2021, TCCA filed a request for the Committee to decide on the admissibility of new evidence.
27. On 16 March 2021, Pakistan filed observations on TCCA's request of 14 March 2021.
28. On 17 March 2021 the Committee decided on the admissibility of new evidence.
29. On 18 March 2021, TCCA filed its Rejoinder on Annulment.
30. On 18 March 2021, Pakistan filed a request to suspend the annulment proceeding. On the same date TCCA filed observations on Pakistan's request to suspend.
31. On 20 March 2021, Pakistan filed further observations on its request to suspend and TCCA in turn replied on 23 March 2021.

32. On 2 April 2021, the Committee issued Procedural Order No. 3 with its decision on Pakistan’s request to suspend the annulment proceeding.
33. On 26 April 2021, the Committee issued Procedural Order No. 4 concerning arrangements for the forthcoming hearing on annulment.
34. On 17 May 2021, the Committee issued its decision on the admissibility of new evidence.
35. From 26 May through 29 May 2021, the Committee held a hearing on annulment by videoconference.
36. On 18 April 2022, the proceeding was suspended following an agreement of the parties.
37. On 18 July and 18 October 2022, the suspension of the proceeding was extended, pursuant to the parties’ agreement.
38. By letter dated 20 December 2022, received by the Centre on 21 December 2022, the parties jointly informed the Committee of the following:

“Dear Members of the Committee:

Pursuant to ICSID Arbitration Rule 43, the Islamic Republic of Pakistan and Tethyan Copper Company Pty Limited jointly request the discontinuance of the annulment proceeding in ICSID Case No. ARB/12/1.

Pakistan hereby withdraws, with prejudice, its application for annulment of the award dated 12 July 2019 and the parties respectfully request that the Committee cease work on drafting its decision on annulment.

Respectfully submitted,”

III. ORDER

39. Rule 43(1) of the ICSID Arbitration Rules provides:

If, before the award is rendered, the parties agree on a settlement of the dispute or otherwise to discontinue the proceeding, the Tribunal, or the Secretary-General if the Tribunal has not yet been constituted, shall, at their written request, in an order take note of the discontinuance of the proceeding.

40. Therefore, in accordance with the parties’ request of 20 December 2022, and pursuant to Rules 43(1) and 53 of the ICSID Arbitration Rules, the Committee hereby takes note of the discontinuance of the proceeding.

[signature]

Prof. Joongi Kim
President of the Committee
(On behalf of the Committee)