

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Gabriel Resources Ltd. and Gabriel Resources (Jersey) Ltd.

v.

Romania

(ICSID Case No. ARB/15/31)

PROCEDURAL ORDER NO. 8

Members of the Tribunal

Ms. Teresa Cheng SC, President of the Tribunal

Prof. Horacio A. Grigera Naón, Arbitrator

Prof. Zachary Douglas QC, Arbitrator

Secretary of the Tribunal

Ms. Sara Marzal Yetano

January 30, 2018

Introduction

- By letters of June 23 and July 12, 2017, the Parties agreed to postpone the confidentiality designations of the Claimants' Opening Memorial and supporting documentation until the Tribunal issued its final determination regarding the witness statements and exhibits filed prior to the Opening Memorial.
- On August 29, 2017, the Tribunal issued its Procedural Order No. 6 in which it decided on the confidentiality of the witness statements and exhibits filed prior to Claimants' Opening Memorial.
- On August 30, 2017, and pursuant to the above mentioned Parties' agreement, the Tribunal established the following schedule for the Parties' confidentiality designations for the Claimants' Opening Memorial and supporting documentation:
 - a. Within two weeks, i.e. by September 13, 2017, either Party should indicate to the other Party and to the Tribunal which portions of Claimants' Opening Memorial and accompanying documentation should be designated and treated as confidential information;
 - b. If the receiving Party disagreed with all or part of the proposed designations, it should communicate the reasons for its disagreement to the submitting Party and the Tribunal within two weeks of receiving such proposed designations (i.e., no later than September 27, 2017).
 - c. The submitting Party would then either withdraw or explain its justification for the challenged designation within one week (i.e., no later than October 4, 2017).
- By letter of September 14, 2017, Claimants requested an extension for the submission of confidentiality designations, which was granted by the Tribunal on September 15, 2017.
- Pursuant to the extension granted by the Tribunal, (i) on September 22, 2017, the Claimants submitted their proposed confidentiality designations; (ii) on October 6, 2017 Respondent submitted its objections, and (iii) on October 13, 2017, Claimants submitted their reply.
- By letter of November 1, 2017, the Respondent submitted certain observations on the Claimants' submission of October 13, 2017 and the interpretation of Procedural Order No. 3.
- By letter of November 6, 2017, the Claimants submitted observations in response to Respondent's November 1, 2017 letter.
- On January 16, 2018, the Tribunal issued its Procedural Order No. 7, in which it decided on the disputed confidentiality designations for Claimants' Opening Memorial. The Tribunal's decision on the confidentiality designations concerning the exhibits, expert

reports, and witness statements accompanying Claimants' Opening Memorial was left for a subsequent procedural order.

Having considered:

- Procedural Order No. 3 dated November 14, 2016 (the "Confidentiality Order").
- The submissions filed by the Parties listed above.
- Procedural Order No. 7 of January 16, 2018.

And having deliberated

The Arbitral Tribunal Hereby Orders as follow:

The disputed non-confidentiality proposals made by Respondent for certain exhibits accompanying Claimants' Opening Memorial are decided as indicated in the "Tribunal's Ruling" column in the Confidentiality Schedule attached as Annex A.

The disputed confidentiality designations concerning the expert reports and witness statements accompanying Claimants' Opening Memorial will be decided in a subsequent order.

On behalf of the Tribunal,

Ms. Teresa Cheng SC
President of the Tribunal
Date: January 30, 2018