

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

WASHINGTON, D.C.

In the arbitration proceeding between

GÖRKEM İNŞAAT SANAYİ VE TİCARET LIMITED ŞİRKETİ

Claimant

and

TURKMENISTAN

Respondent

(ICSID CASE NO. ARB/16/30)

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

Members of the Tribunal

Dr. Claudia Annacker, President of the Tribunal
Mr. James H. Boykin, Arbitrator
Professor Zachary Douglas QC, Arbitrator

Secretary of the Tribunal

Ms. Ella Rosenberg

Date of dispatch to the Parties: December 12, 2017

REPRESENTATION OF THE PARTIES

Representing Görkem İnşaat Sanayi ve
Ticaret Limited Şirketi:

Mr. Egemen Egemenoglu
Egemenoglu Law Firm
Levent Mah.
Alt Zeren Sok. No. 1
Beşiktaş, Istanbul
Turkey

and

Mr. Akin Alcitepe
Butzel Long, P.C.
1909 K Street, N.W., Suite 500
Washington, D.C. 20006
United States of America

Representing Turkmenistan:

Ms. Miriam Harwood
Ms. Gabriela Alvarez-Avila
Curtis, Mallet-Prevost, Colt & Mosle LLP
101 Park Avenue
New York, N.Y. 10178
United States of America

and

Mr. Ali R. Gürsel
Ms. Bahar Charyyeva
Curtis, Mallet-Prevost, Colt & Mosle LLP
Maya Akar Center
Buyukdere Caddesi No. 100-102
Kat 23, No. 89, Esentepe 34394
Istanbul, Turkey

1. On August 5, 2016, the International Centre for Settlement of Investment Disputes (“ICSID”) received a request for arbitration from Görkem İnşaat Sanayi ve Ticaret Limited Şirketi (“the Claimant”) for the institution of arbitration proceedings against Turkmenistan (“the Respondent”) under the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (“the ICSID Convention”), in respect of a dispute under the Agreement between the Government of the Republic of Turkey and the Government of Turkmenistan Concerning the Reciprocal Promotion and Protection of Investments of May 2, 1992 (“the Request”). The dispute related to the Claimant’s alleged investment in Turkmenistan regarding the construction of a shopping plaza and trade center for the State Association of Animal Husbandry, which the Claimant described as a Turkmen State entity.
2. On August 23, 2016, the Acting Secretary-General registered the Request pursuant to Article 36(3) of the ICSID Convention and Rules 6(1)(a) and 7(a) of the ICSID Rules of Procedure for the Institution of Conciliation and Arbitration Proceedings (“ICSID Institution Rules”) and notified the Parties of the registration. In the Notice of Registration, the Acting Secretary-General invited the Parties to proceed to constitute an Arbitral Tribunal as soon as possible in accordance with Rule 7(d) of the ICSID Institution Rules.
3. In the absence of an agreement between the Parties on the method of constituting the Tribunal, the Claimant informed the Secretary-General, by letter of November 1, 2016, that it had chosen the formula provided for in Article 37(2)(b) of the ICSID Convention which provides that the Tribunal shall consist of three arbitrators, one arbitrator appointed by each Party and the third, presiding arbitrator, appointed by agreement of the Parties.
4. The Tribunal was constituted in accordance with Article 37(2)(b) of the ICSID Convention and is composed of Dr. Claudia Annacker, a national of Austria, President, appointed by agreement of the Parties; Mr. James H. Boykin, a national of the U.S., appointed by the Claimant; and Professor Zachary Douglas QC, a national of Australia, appointed by the Respondent.
5. On October 16, 2017, the Secretary-General, in accordance with Rule 6(1) of the ICSID Rules of Procedure for Arbitration Proceedings (“ICSID Arbitration Rules”) notified the Parties that all three arbitrators had accepted their appointments and that the Tribunal was therefore

deemed to have been constituted on that date. Ms. Ella Rosenberg, ICSID Legal Counsel, was designated to serve as Secretary of the Tribunal.

6. By letter of November 28, 2017, the Claimant requested the discontinuance of the proceeding pursuant to ICSID Arbitration Rule 43(1).
7. By letter of November 29, 2017, the Tribunal requested that the Parties confirm whether they had agreed on a settlement of the dispute or otherwise to discontinue the proceedings pursuant to ICSID Arbitration Rule 43(1).
8. By email dated November 29, 2017, the Claimant confirmed that the Parties had agreed to discontinue the proceeding. Similarly, by email dated December 1, 2017, the Respondent also confirmed that the Parties had agreed to discontinue the proceeding.
9. 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.

ORDER

10. Therefore, in accordance with the Parties' request, the Tribunal hereby takes note of the discontinuance of the proceeding pursuant to Rule 43(1) of the ICSID Arbitration Rules.

[signed and dated]

Mr. James H. Boykin
Arbitrator
Date:

[signed and dated]

Professor Zachary Douglas QC
Arbitrator
Date:

[signed and dated]

Dr. Claudia Annacker
President of the Tribunal
Date: