

**International Centre for Settlement of Investment Disputes
Washington, D.C.**

**CORPORACIÓN QUIPORT S.A. AND OTHERS
(CLAIMANTS)**

v.

**REPUBLIC OF ECUADOR
(RESPONDENT)**

ICSID CASE NO. ARB/09/23

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

Date of Dispatch to the Parties: November 11, 2011

1. On December 18, 2009 the International Centre for Settlement of Investment Disputes (“ICSID” or the “Centre”), received a request for arbitration (the “Request”) from Corporación Quiport S.A. and others (referred to as the “Claimants”) against the Republic of Ecuador (also referred to as the “Respondent”).
2. On December 18, 2009, the Centre acknowledged receipt of the Request in accordance with the Rules of Procedure for the Institution of Conciliation and Arbitration Proceedings (“Institution Rules”) and, on the same date, transmitted a copy to the Respondent.
3. The Secretary-General of the Centre registered the Request on December 30, 2009, in accordance with Article 36(3) of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the “ICSID Convention”) and Rules 6(1)(a) and 7(a) of the Institution Rules. The Secretary-General further invited the Parties to constitute the tribunal as soon as possible in accordance with Rule 7 of the Institution Rules and Articles 37 to 40 of the ICSID Convention.
4. On January 11, 2010, the Parties informed the Centre of their participation in negotiations related to the present proceeding. Additionally, the Parties requested that *“the Centre immediately suspend the proceeding until such time as one of the parties may seek to reactivate the proceedings”*. On January 19, 2009, the Centre took note of the Parties’ agreement to suspend.
5. On February 4, 2011, the Centre received a letter of the same date, in English and Spanish, signed by the representatives of the Parties, informing the Secretary-General that the Parties had agreed to discontinue the proceeding in accordance with Rule 43(1) of the Rules of Procedure for Arbitration Proceedings (“Arbitration Rules”), subject to the following terms and conditions:

- “1. *The Parties acknowledge and agree that the discontinuance of the Arbitration shall take effect only upon receipt by the Centre of a copy of the certificate of effectiveness of the Strategic Alliance Agreement. The Parties request that the Centre take notice of such discontinuance only after the receipt of the above-referenced certificate of effectiveness.*

2. *On the basis of the effectiveness of the Affirmation and Amendment to the Investment Contract and the Strategic Alliance Agreement, the discontinuance of the Arbitration is with prejudice only in respect of the following events specifically identified in the Notice of Dispute dated August 12, 2009 (as submitted with the Request for Arbitration):*

- *Judgment No. 003-09-SIN-CC rendered by the Ecuadorian Constitutional Court for the Transition Period (the “Court”) dated July 23, 2009, published in Official Register No. 644 dated July 29, 2009;*

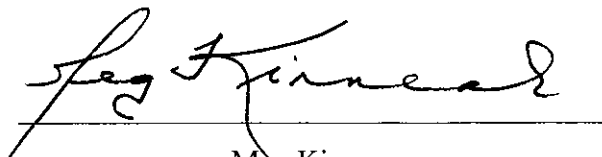
- *Resolution No.238 rendered by the Court on August 6, 2009;*
- *Official Letter No. 0011A from the Mayor for the Metropolitan District of Quito to Corporación Quiport S.A. dated August 7, 2009;*
- *Municipal Ordinance No. 0290, approved by the Municipality on June 4, 2009, published in the Official Register No. 638 dated July 21, 2009;*
- *Municipal Ordinance No. 0289, approved by the Municipality on November 17, 2008, published in Official Register No. 628 dated July 7, 2009;*
- *The notice of denunciation of the ICSID Convention sent to the depositary of the Convention on July 6, 2009; and*
- *The denunciation of the Agreement for the Reciprocal Promotion and Protection of Investments entered into between Ecuador and Uruguay by way of an exchange of diplomatic notes dated July 31, 1985.*

Furthermore, the discontinuance with prejudice of the above-referenced claims shall not extend to any other claims not listed above, or to any new claims that Claimants may assert against Respondent on the basis of any other conduct by Respondent subsequent to this letter, which Claimants expressly reserve for any and all purposes, in which case Claimants may submit a new Request for Arbitration before the Centre.”

6. On February 4, 2011 the Centre also received a copy of the certificate of effectiveness of the Strategic Alliance Agreement (Strategic Alliance Agreement Effective Date Certificate), where the Parties agreed and certified that “*the SAA Effective date is established as February 4, 2011*”.

ORDER

7. THEREFORE, in light of the Parties’ agreement referred to above, the Secretary-General of the Centre hereby takes note of the discontinuance of the proceeding in accordance with Rule 43(1) of the Arbitration Rules.



Meg Kinnear
Secretary-General