

ICSID Case No. ARB/07/5

**ABACLAT AND OTHERS
(CLAIMANTS)**

and

**THE ARGENTINE REPUBLIC
(RESPONDENT)**

PROCEDURAL ORDER NO. 13

27 SEPTEMBER 2012

I. BACKGROUND

1. On 7 July 2012, the Arbitral Tribunal issued Procedural Order No. 12, providing for the next steps of the procedure and in particular for the implementation of an expertise for the verification of the database (the “Database Verification”). The Arbitral Tribunal announced that it would prepare a further Procedural Order to “*deal with the mission of the Expert(s) to be appointed*”.
2. On 17 July 2012, Claimants sent an unsolicited letter emphasizing the qualities that the expert(s) should have, and announced that they were prepared to update their Annexes and Database regarding the identity of Claimants.
3. On 3rd August 2012, Respondent sent unsolicited comments on Procedural Order No. 12 expressing certain complaints towards Procedural Order No. 12, without filing any specific requests for relief.
4. On 7 August 2012, the Arbitral Tribunal circulated a draft Procedural Order No. 13, proposed by the majority of the Arbitral Tribunal, and aimed at suggesting an expert, specifying the scope of his mission and setting out a timeline for the Database Verification.

At the same time, the Arbitral Tribunal provided the Parties with the CV of the expert under consideration, Dr. Norbert Wühler, together with the “Statement of Dissent” of Dr. Santiago Torres Bernárdez. The Parties were given until 24 August 2012 to comment on the draft Procedural Order No. 13, as well as on the choice of the expert upon receipt of complementary information by the expert.

Furthermore, the Arbitral Tribunal acknowledged receipt and took note of Respondent’s letter of 3 August 2012.

5. On the same day, the ICSID Secretariat forwarded to Dr. Wühler a letter from the President of the Arbitral Tribunal inviting him to confirm that (i) he was available and willing to take the case, (ii) he was independent and impartial, (iii) he possessed the necessary skills and qualifications, and (iv) he would be able to conduct and complete the Verification Proceedings in time.
6. On 11 August 2012, Claimants sent an unsolicited letter to the Arbitral Tribunal announcing that they objected to Respondent’s letter of 3 August 2012 and that they would respond to it separately, and that, in the meantime, they made certain comments on the timeline and procedural sequence proposed in Procedural Order No. 12 and the draft Procedural Order No. 13.

7. On 16 August 2012, the Arbitral Tribunal granted Respondent a time limit until 20 August 2012 to respond to Claimants' letter of 11 August 2012.
8. On 17 August 2012, Respondent requested a one-day extension of the deadline of 20 August 2012 due to a national holiday in Argentina.
9. On 20 August 2012, Claimants sent a letter in response to Respondent's letter of 17 August 2012 objecting to Claimants' one-day extension request.
10. On 21 August 2012, Respondent sent its response to Claimants' letters of 11 August 2012 and of 20 August 2012. In this letter, Respondent refuted Claimants' protest to the one-day extension, and objected to Claimants' proposals as contemplated in their letter of 11 August 2012 based on the ground that Claimants gave "*no valid reasons to justify [the] proposed revised schedule*".
11. On 22 August 2012, the Arbitral Tribunal acknowledged receipt of Claimants' letters of 11 and 20 August 2012 and of Respondent's letter of 21 August 2012. It informed the Parties that Dr. Wühler had been away and had thus not been in a position to respond to the enquiry of the Tribunal. Consequently, the Arbitral Tribunal deferred the time limit set for 24 August 2012 in its letter of 7 August 2012.

It further invited the Parties to refrain from submitting any further correspondence with regard to draft Procedural Order No. 13 or the matters dealt with therein, until the Tribunal would hear from Dr. Wühler and decide on the next steps.

12. On 22 August 2012, Claimants sent comments concerning Respondent's letter of 3 August 2012, as announced in their letter of 11 August 2012.
13. On 27 August 2012, the Arbitral Tribunal acknowledged receipt of Claimants' letter of 22 August 2012, which had apparently crossed the Tribunal's letter of the same day. The Arbitral Tribunal repeated that it did not wish to receive any further correspondence until a response from Dr. Wühler was received and until a decision on the next steps was being taken. It therefore decided to temporarily disregard Claimants' letter and invited Respondent to temporarily refrain from reacting thereto.
14. On the same day, the Arbitral Tribunal received a response from Dr. Wühler, who confirmed his availability and submitted a declaration of independence. He further indicated that he would need the following assistance: (i) an IT system analyst, (ii) someone proficient in Italian, and (iii) additional assistance

depending on the volume of documents. Dr. Wühler requested one clarification and suggested one addition to draft Procedural Order No. 13:

- a. Regarding item 8(i) of draft Procedural Order No. 13, he enquired whether the 'documents' referred therein refer only to physical documents or to information of another nature and what was the volume of this information;
 - b. Regarding item 8(iii) of draft Procedural Order No. 13, he suggested to add into the scope of examination the question of whether the database contains duplicates of information.
15. On 31 August 2012, ICSID circulated to the Parties the response received from Dr. Wühler, together with a message from the President. In this message, the Parties were invited to comment on the draft Procedural Order No. 13 and the proposal of Dr. Wühler as expert by 6 September 2012.

The message reiterated Dr. Santiago Torres Bernárdez' objection to the appointment of Dr. Wühler as a sole (unique) expert as per his "Statement of Dissent" forwarded already to the Parties (see above para 4), and specified that the other two members of the Arbitral Tribunal considered the candidate proposed by Dr. Torres Bernárdez (i.e. Prof. Fernandez-Rozas) as lacking the necessary expertise for the task.

16. On 5 September 2012, Claimants sent an unsolicited letter to the Tribunal concerning the timetable for submission of Claimants' Memorial on Phase 2 as well as new information regarding criminal proceedings in Italy against certain Claimants, in particular the Pilastro Family. In their letter, Claimants submitted a number of requests (see below paras 26-27).
17. On 6 September 2012 and 7 September 2012 (12:15 am), respectively, Respondent and Claimants submitted their comments on draft Procedural Order No. 13 and Dr. Wühler's profile (see below paras 54-57).
18. On 10 September 2012, Respondent was invited to comment on Claimants' letter of 5 September 2012 as follows:
- regarding the request for extension of deadline, Respondent was invited to comment within 48 hours;
 - regarding Claimants' requests concerning the Italian criminal proceedings, Respondent was invited to comment by 17 September 2012.
19. On 12 September 2012, Respondent commented on Claimants' request for time extension and objected to such time extension based mainly on two reasons: (i) Claimants already had over two years to prepare, and (ii) Claimants' allegations regarding the difficulties encountered in gathering information on the Italian

criminal proceedings show that Claimants' counsel are not really in contact with the individual Claimants.

20. On the same day, the Arbitral Tribunal invited each Party to comment on the other Party's letter of 6 September 2012 by 18 September 2012.
21. On 14 September 2012, the Arbitral Tribunal granted an extension of time to Claimants for the submission of their Memorial on Phase 2 until 30 September 2012. An equal extension would be granted to Respondent and the Arbitral Tribunal indicated that it would circulate an updated Timetable soon, replacing the Timetable of Procedural Order No. 12.
22. On the same day, in response to a reminder of ICSID dated 12 September 2012 concerning the unpaid amount of advance on costs, Respondent sent a letter indicating that "*in the light of the manifest illegitimacy of this proceeding and the severe limitation to Argentina's right of defense, the Argentine Republic is currently analyzing the appropriateness of the request for funds made by the Tribunal*".
23. On 17 September 2012, Respondent filed its comments on Claimants' allegations and requests regarding the Italian criminal proceedings (see below paras 28-30).
24. On 18 September 2012, in accordance with the Tribunal's letter of 12 September 2012 (see above para 20), Respondent and Claimants submitted their respective comments on each other's letters of 6 and 7 September 2012 (see above para 17).
25. On 21 September 2012, Claimants commented on Respondent's letter of 17 September 2012 and reiterated their requests set out in their letter of 5 September (see above para 16).

II. REGARDING THE ITALIAN CRIMINAL PROCEEDINGS

A. *Positions of the Parties*

1. Claimants' Position

26. In their letter of 5 September 2012 (see above para 16), Claimants submitted the following requests for relief:

“- [...].

- *Respondent is ordered to immediately provide an accounting of its involvement in any and all criminal investigations*

against Claimants and former Claimants, including but not limited to members of the Pilastro, Gardini, and Airaghi families.

- *Respondent is ordered to immediately discontinue, or cause to discontinue, all outside proceedings against Claimants or former Claimants with respect to confidential Claimant documentation or any other issues related to this proceeding.*
- *Respondent is ordered to immediately produce to Claimants all documents from any such proceeding.”*

27. These requests are based on the following main considerations:

- Claimants’ counsel recently obtained documents from the Pilastro investigation file, among which a 30 July 2009 submission from Argentina’s Procurador Osvaldo Gugliemino to Italian authorities at the courts of Bologna, Milan and Cuneo. These submissions enclosed tens of thousands of pages of confidential material from the ICSID arbitration. These documents make it apparent that Respondent has been engaged for years in a campaign to harass and intimidate individual Claimants through reprehensible criminal actions, to disclose vast volumes of confidential materials to unauthorized third parties, and, all the while, to conceal Respondent’s actions from both Claimants and the Tribunal.
- In Procedural Order No. 11, the Arbitral Tribunal repeatedly ruled that the question of fraud is one of the questions which the Parties will be given the opportunity to address during the next phase. There can be little doubt that Respondent will do so and that it will rely on the Italian proceedings, as it has done before. In order to preserve Claimants’ due process rights to equal treatment and to present their case, it is critical that Claimants have the opportunity prior to submitting their Memorial to access the complete record of the Pilastro investigation, along with any other proceedings that Respondent has initiated against Claimants.

2. Respondent’s Position

28. In its letter of 17 September 2012 (see above para 23), Respondent made the following arguments:

- It was Argentina who indicated to the Arbitral Tribunal the existence of Italian criminal proceedings. In addition, the evidence submitted by Claimants do not bring anything new or relevant to the present proceedings.

- Argentina never denied having initiated these criminal proceedings. Argentina also never evaded any questions, and the questions raised by Mr. Hamilton during the hearing were of rhetorical nature and were contained in his Opening Statement, i.e. they were not directly addressed at Argentina. In addition, the outcome of the criminal proceedings is irrelevant and does not change the fact that the signatures were falsified, and thereby establish the invalidity of the consent given by the relevant claimant.
 - Argentina had no obligation to provide Claimants with additional information on these proceedings, and Argentina does not have the entire files relating to these proceedings.
29. New expertise proceedings regarding the documents of the TFA Mandate Package and the revocation of the Mandate demonstrate again that the signatures attributed to Mr. Antonio Pilastro show discrepancies.
30. Respondent therefore requests that Mr. Pilastro be heard and that a hearing be organized for this purpose.

B. Considerations of the Arbitral Tribunal

1. Concerning Claimants' Requests

31. In order to address the Claimants' Requests regarding the disclosure of confidential materials by Respondent in the Italian criminal proceedings, the Tribunal is required to first set out the confidentiality obligations governing these arbitral proceedings. Accordingly, the Tribunal shall rule on Claimants' Requests on the basis of and by applying the relevant confidentiality obligations established in the present arbitral proceedings.
32. In Procedural Order No. 3 dated 27 January 2010, the Arbitral Tribunal set out the rules of confidentiality governing the present proceedings and the information exchanged therein. The confidentiality of the information contained in the Database provided by Claimants is dealt with in paras 121 to 137 of Procedural Order No. 3.
33. In particular, in para 132, the Arbitral Tribunal ruled as follows:

“132. Based on the above considerations, taking into account Claimants' basic willingness to provide Respondent with direct access to the online Database (see above § 12), and after balancing Claimants' for continued protection of its personal data and Respondent's right in accessing all information necessary to defend its case, the Tribunal orders that Respondent be given direct access to Claimants' online Database subject to the following restrictions:

- (i) *Access shall be given only to those persons who are directly involved in the present arbitration on behalf of Respondent (“Authorised Persons”). Respondent shall provide Claimants with a list of such Authorised Persons, and shall update this list whenever necessary. Each person or category of Authorised Persons shall be given distinct access codes, so as to monitor the access to the Database.*
- (ii) *Access shall allow Respondent to consult the Database, but not to make any changes or alteration thereto.*
- (iii) *Respondent shall use the information contained in the Database (“Confidential Information”) solely for purposes of conducting this arbitration. Further, except for the part of the Confidential Information which is subject to publication in ICSID’s registers and website according to Regulations 22 and 23 of the Administrative and Financial Regulations and therefore constitutes public knowledge, Respondent shall not disclose to any unauthorized person or entity any of the Confidential Information, without obtaining prior consent from Claimants’ Counsel.*
- (iv) *Respondent shall keep the Confidential Information secure, and take appropriate measures to ensure that the Authorised Persons understand the confidential nature of the Confidential Information and comply with the same obligations as set forth in lit. (iii) above.*
- (v) *Any breach or suspected breach of the present restriction shall be reported immediately to Claimants’ counsel.”*

34. In para 133, the Tribunal added:

“The Confidential Information which has already been provided to Respondent by other means than direct access to the Database (i.e., through the submission of hard and soft copies of the relevant Annexes) shall be subject to the same restrictions as described in § 132 lit (iii) – (v).”

35. In para 32 of Procedural Order No. 11, the Arbitral Tribunal further confirmed that these principles apply equally to Claimants listed in the Database as well as Claimants who may have already withdrawn from the proceedings.

36. The Arbitral Tribunal sees no reason to deviate from the rules set forth in Procedural Orders Nos. 3 and 11.

37. Based on the rule provided in para 132(iii) of Procedural Order No. 3, Respondent shall use the information contained in the Database for the sole purposes of conducting this arbitration. In other words, Respondent may not use the information contained in the Database for other purposes. This applies to any information contained in the Database which is not publicly available.
38. Respondent has acknowledged having initiated criminal proceedings in Italy against individuals of the Pilastro, Gardini and Airaghi family. These criminal proceedings concerned the question whether certain signatures of these individuals as affixed on some of the TFA Mandate Package or thereto related documents are forged. As such, it arises out of the information available to the Parties and the Arbitral Tribunal that Respondent provided the Italian authorities with information relating to the signature of the TFA Mandate Package and related documents as well as copies of these documents.
39. Whilst the Arbitral Tribunal can in principle not prohibit a Party from conducting criminal court proceedings before competent state authorities, neither Party may for this purpose use the Confidential Information. Indeed, entitling a party to using information provided by the other party on a confidential basis in specific legal proceedings would endanger the latter's right of action and/or defense in such proceedings, as such party would have to fear that this information be used against it in other proceedings. This would go against the very purpose of the confidentiality protection.
40. Therefore, the Arbitral Tribunal finds that by using the Confidential Information as defined in para 132(iii) of Procedural Order No. 3 in order to conduct criminal proceedings in Italy against individuals who are or where at some point Claimants in this arbitration, and by providing the Italian authorities with copies of documents that pertain to Confidential Information, Respondent has breached the order set out in para 132(iii) of Procedural Order No. 3.
41. If and to the extent that those documents are documents falling under para. 133 of Procedural Order No. 3, and those documents would have been filed in the criminal proceedings prior to the date of Procedural Order No. 3, Respondent should have taken all measures to protect the confidential nature once Procedural Order No. 3 was issued. Moreover, at the time (2009) Respondent was aware of the pending requests regarding confidentiality in the present arbitral proceedings.
42. Consequently, and in accordance with the order set out in para 132(v) of Procedural Order No. 3, Respondent shall report to Claimants any breach of para 132(iii) of Procedural Order No. 3 committed by Respondent, including but not limited to the breaches identified herein.

43. This duty to report on the breach includes the provision by Respondent to Claimants of detailed information on: (i) the number of proceedings initiated by Respondent in any relevant jurisdiction, (ii) the number and names of individuals concerned (provided these individuals are or were at some point Claimants in this arbitration), (iii) the specific date and place of initiation of such proceedings, including the name of the authority(ies) in charge, (iv) the case number assigned to these cases by the relevant authorities, and (v) the status of the proceedings. Respondent shall further provide Claimants with a copy of all documents provided to the relevant authorities as well as a copy of all documents received in connection with these proceedings, either from the relevant authorities directly or from other bodies or parties involved therein.
44. Such information and documents shall be provided by Respondent to Claimants within 10 days of receipt of this Procedural Order No. 13. If Respondent is not in a position to provide any of the information or documents requested above, it shall issue within the same time limit a formal statement confirming that it is not in a position to provide this information or document and setting out the reasons why it is not in a position to do so.
45. As to Claimants' request that the Respondent is ordered to immediately discontinue, or cause to discontinue, all outside proceedings against Claimants or former Claimants with respect to confidential Claimant documentation or any other issues related to this proceeding, the Arbitral Tribunal refers to its finding in para 39 above and finds that it is not in a position to prohibit a Party from conducting criminal court proceedings before competent state authorities.

2. Concerning Respondent's Request

46. Respondent requests to admit into the record the new expertise on signatures provided by Respondent and to hear Mr. Antonio Pilastro. This request relates to issues of individual jurisdictional.
47. In its Decision on Jurisdiction and Admissibility of 4 August 2012, the Arbitral Tribunal provided in para 454 that "*[t]he argument of a possible falsification of certain signatures is irrelevant at this stage, and will – if necessary – be examined when dealing with issues relating to individual Claimants*".
48. This principle was repeated and confirmed in Procedural Order No. 11, para 15, in which the Arbitral Tribunal stated that "*whether the consent of some of the Claimants may have been obtained based on fraud is part of the questions which the Parties will be given the opportunity to address during the next phase*".

49. In its Procedural Order No. 12, the Arbitral Tribunal specifically envisaged the opportunity for the Parties, and provided that “[i]n its *Counter-Memorial on Phase 2*, Respondent may also address issues of jurisdiction and admissibility to the extent that they have not been addressed and decided in the Decision”. This includes issues relating to individual Claimants and thereby issues of alleged falsification of signatures.
50. Thus, Respondent will have the opportunity to bring forward the arguments it is making with regard to Mr. Antonio Pilastro in its Memorial on Phase 2 and Claimants will be afforded in its Reply Memorial the opportunity to take position thereon.
51. Further, the question of examination of specific witnesses and/or Claimants may be addressed when preparing for the hearing planned concerning Phase 2, and in this context Respondent will have the opportunity to submit its request for examination of Mr. Antonio Pilastro. Claimants will be afforded the right to comment thereon, and the Arbitral Tribunal will then decide.
52. Respondent has not provided any ground and the Arbitral Tribunal sees no reason why Respondent’s requests would need to be dealt with immediately and cannot await to be dealt with within the context of the relevant procedural step provided for in Procedural Order No. 12, and as amended by this Procedural Order No. 13.
53. Consequently, the Arbitral Tribunal finds that Respondent’s requests are premature and invites Respondent to address these issues within the context of the relevant procedural steps according to the procedural timetable set out by the Arbitral Tribunal.

III. REGARDING THE NEXT PROCEDURAL STEPS

A. The Parties’ Position

1. Claimants’ Position

54. In their letter of 11 August 2012 (see above para 5), Claimants made the following proposals with regard to the timetable: (i) that the comments on the scope of mission of the expert and comments on the expert himself be separated, (ii) that the Summary Statement to be submitted by the Parties be submitted before the final determination of the expert’s scope of mission, and (iii) that the ‘Draft Expert Report’ should be issued only after both Parties submitted their Memorial, as otherwise Respondent would get an unfair advantage.

55. In their letter dated 6 September 2012 (see above para 17), Claimants made the following comments regarding the overall procedure:
- Claimants consider that the present calendar does not afford both Parties with an adequate opportunity to present their case on individual issues, based on the following main reasons: (i) the time between submission of Claimants' Memorial (30 September) and the submission of the summary for the Expert (14 days upon issuance of Procedural Order No. 13) is too tight, (ii) the draft Verification Report will be issued before Respondent's Memorial is due and will thus afford Respondent with an unfair advantage, and (iii) the Final Report is due on the same date (15 November) as Respondent's Rejoinder. Claimants suggest that the Verification Process commences only after the submission by both Parties of their Memorial, which shall include issues of individual jurisdiction. Claimants further indicate that they intend to file an updated version of their database in a computerized and searchable form.
 - Claimants insist on being given the opportunity to comment on the work and fee proposal before the start of the Verification Process.
56. In their letter dated 18 September 2012 (see above para 24), Claimants confirmed that the Database spreadsheets they intend to file "*do not constitute a new or separate database, but instead will present – in an organized, searchable, electronic format – the same evidence that is compiled in the online Database*".

2. Respondent's Position

57. Respondent rejects the procedure as set out by the Arbitral Tribunal as well as the suggestions made by Claimants. Respondent, however, did not make any specific proposal regarding the next steps.

B. Considerations of the Tribunal

1. Concerning the Timetable and Scope of the Memorials

58. Having considered the Parties' positions and taking into account the time elapsed since the issuance of Procedural Order No. 12 and the draft Procedural Order No. 13, the Arbitral Tribunal has decided to amend the current timetable as follows.
59. The sequence is amended in that the Database Verification shall start only after completion of the first round of exchange of written Memorials by the Parties. However, this shall not prevent the Arbitral Tribunal from taking, in the meantime, preparatory measures with regard to the Database Verification in order to ensure the efficient and timely start of such process.

60. It is hereby confirmed that Claimants are entitled to deal with issues of individual jurisdiction in their Memorial on Phase 2, to the extent that these issues have not been addressed and decided in the Decision on Jurisdiction and Admissibility.
61. However, the Arbitral Tribunal does not consider it necessary for Claimants to obtain the information mentioned in para 43 above with relation to the Italian criminal proceedings for preparing their Memorial on Phase 2. The Arbitral Tribunal believes that Claimants will have a sufficient opportunity to respond in its Reply Memorial on Phase 2 to any arguments made by Respondent in this regard in its Memorial on Phase 2.
62. Therefore, the Arbitral Tribunal has decided to set the dates for submission of the Parties' Memorials on Phase 2 as follows:
- Claimants' Memorial on Phase 2: **30 September 2012**, as already decided in the Arbitral Tribunal's letter of 14 September 2012 (see above para 21).
 - Respondent's Memorial on Phase 2: **15 December 2012** (i.e. 4 weeks after the original deadline of 15 November 2012 to take into account (i) the postponement of the deadline for Claimant's Memorial and (ii) an additional two weeks as granted to Claimants).
63. The Arbitral Tribunal will make further amendments to Procedural Order No. 12 after it has decided on the specific timeline and scope of the Database Verification process.

2. Concerning the Database

64. With regard to the content of the Database, the version of the Database as admitted into the record with the Arbitral Tribunal's Decision on Jurisdiction and Admissibility is the current version in force for these proceedings. However, this does not prevent Claimants from amending this Database according to the principles established in the Arbitral Tribunal's Decision on Jurisdiction and Admissibility, in particular in paras 592-641.
65. With regard to the format of the Database, the Arbitral Tribunal sees no reason to refuse that such Database be submitted in an additional format, i.e. in computer-searchable spreadsheets.
66. The current Database as admitted into the record by the Arbitral Tribunal's Decision on Jurisdiction and Admissibility remains in the record and the amended Database shall be such that it can be compared with the current Database.

IV. RULING

67. Based on the above considerations, the Arbitral Tribunal rules as follows:

A. With regard to the Italian criminal proceedings:

- (i) By using the information contained in the Database to conduct criminal proceedings in Italy against individuals who are or where at some point Claimants in this arbitration, and by providing the Italian authorities with copies of documents contained in the Database, Respondent has breached the order set out in para 132(iii) of Procedural Order No. 3.**
- (ii) In accordance with the order set out in para 132(v) of Procedural Order No. 3, Respondent shall report to Claimants any breach of para 132(iii) of Procedural Order No. 3 committed by Respondent, including but not limited to the breaches identified herein.**

In particular Respondent shall within 10 days upon receipt of this Procedural Order No. 13 provide Claimants with

- Detailed information on (i) the number of proceedings initiated by Respondent in any relevant jurisdiction, (ii) the number and names of individuals concerned (provided these individuals are or were at some point Claimants in this arbitration), (iii) the specific date and place of initiation, including the name of the authority(ies) in charge, (iv) the case number assigned to these cases by the relevant authorities, and (v) the status of the proceedings.**
- A copy of all documents provided to the relevant authorities as well as a copy of all documents received in connection with these proceedings, either from the relevant authorities directly or from other bodies or parties involved therein.**
- (iii) In case Respondent is not in a position to provide any of the information or documents requested above, it shall issue within 10 days upon receipt of this Procedural Order No. 13 a formal statement confirming that it is not in a position to provide this information or document and setting out the reasons why it is not in a position to do so.**
- (iv) Any other request is rejected.**

B. With regard to the next steps:

- (i) Claimants are entitled to deal with issues of individual jurisdiction in their Memorial on Phase 2, to the extent that these issues have not been addressed and decided in the Decision on Jurisdiction and Admissibility.**
- (ii) Claimants may amend the content of the Database in accordance with the principles set out in paras 592-641 of the Decision on Jurisdiction and Admissibility and may submit it in the form of computer-searchable spreadsheets, it being understood that the current Database as admitted into the record by the Arbitral Tribunal's Decision on Jurisdiction and Admissibility remains in the record and the amended Database shall be such that it can be compared with the current Database.**
- (iii) The dates for submission of the Parties' Memorials on Phase 2 are set as follows:
 - Claimants' Memorial on Phase 2: 30 September 2012
 - Respondent's Memorial on Phase 2: 15 December 2012**
- (iv) The Arbitral Tribunal will further amend the Timetable attached to Procedural Order No. 12 after it has decided on the specific timeline and scope of the Database Verification process.**
- (v) Any other request is rejected.**

The decisions made in this Procedural Order have been made jointly by the majority of the members of the Arbitral Tribunal.

Dr. Torres Bernárdez has issued a separate 'Statement of Dissent', which is attached hereto.

The majority of the Arbitral Tribunal considers the critiques therein unjustified.

For the Arbitral Tribunal,

[signed]

Pierre Tercier