

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

In the proceedings between

**International Company for Railway Systems (ICRS),
Privatization Holding Company (PHC)**
(Claimants)

and

Hashemite Kingdom of Jordan
(Respondent)

(ICSID Case No. ARB/09/13)

Procedural Order No. 1
Concerning the Discontinuance of Proceedings with Respect to
Privatization Holding Company (PHC)

1. By an application of February 18, 2010, Privatization Holding Company (PHC) advised the Tribunal of its decision to withdraw from this proceeding as Claimant and requested that the Tribunal issue an order taking note of the discontinuance of the proceedings as to PHC, pursuant to ICSID Arbitration Rule 44.
2. Pursuant to ICSID Arbitration Rule 44, by Order of February 22, 2010, the Tribunal fixed a time limit for Claimant International Company for Railway Systems (ICRS) and Respondent Hashemite Kingdom of Jordan to each state whether they oppose the discontinuance of this proceedings with respect to PHC.
3. By letter dated February 25, 2010, Claimant ICRS stated that it did not oppose the discontinuance of the proceedings as to PHC.
4. By letter, dated February 25, 2010, Respondent Hashemite Kingdom of Jordan stated that it did not oppose the discontinuance of the proceedings as to PHC, while adding that

- a) “its acquiescence to PHC’ Request to withdraw its claims and discontinue these proceedings as to PHC is not an admission of any kind by Jordan as to the jurisdiction or merits of any claim, nor a waiver of any rights Jordan may have;”
 - b) with regard to PHC’s statement that “PHC’s withdrawal ‘*shall have no bearing whatsoever upon its right to participate in these proceedings in its capacity as a shareholder of ICRS . . .*’ Jordan cannot yet take a view on this aspect of the Request.” The Respondent further stated that “PHC should specify, in particular, what ‘*right to participate in these proceedings*’ it will have once its Request for discontinuance from these proceedings is granted by order of the Tribunal.”;
 - c) it “rejects any suggestion by Claimants that it has forced PHC to withdraw from these proceedings.”
5. ICSID Arbitration Rule 44 provides, in relevant part, that “[i]f no objection is made in writing within the time limit, the other party shall be deemed to have acquiesced in the discontinuance and the Tribunal . . . shall in an order take note of the discontinuance of the proceeding.”
 6. ICSID tribunals, when faced with cases in which one of the claimants requests, under ICSID Arbitration Rule 44, the discontinuance of proceedings with respect to that claimant only, have granted the requests that were not objected to by the other parties, noting that

neither ICSID Arbitration Rule 44, nor any other ICSID Arbitration Rule, nor the ICSID Convention specifically provides for the withdrawal of one party from an arbitration proceeding that is to continue thereafter;

. . . Article 44 of the ICSID Convention provides: ‘. . . If any question of procedure arises which is not covered by this Section or the Arbitration Rules or any rules agreed by the parties, the Tribunal shall decide the question;’

. . . discontinuance of the proceedings with respect to one of the parties at its request and in the absence of objection from other parties is in accordance with the basic objective of the ICSID Convention of facilitating the settlement of investment disputes, of which ICSID Arbitration Rule 44 is a specific manifestation.¹

7. This Tribunal finds that ICSID Arbitration Rule 44 only envisages a total discontinuance of the proceedings, but notes that Article 44 of the Convention allows the Tribunal to decide any question of procedure not covered by ICSID Arbitration Rules. In light of that finding, the Tribunal concludes that it has the power to order a partial discontinuance of the proceedings, with regard to one or more parties.

¹ Aguas Provinciales de Santa Fe S.A., Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. v. Argentine Republic (ICSID Case No. ARB/03/17) Procedural Order No. 1 (April 14, 2006) at 2–3; Aguas Argentinas S.A. Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentine Republic (ICSID Case No. ARB/03/19) Procedural Order No. 1 (April 14, 2006) at 2–3.

8. Now, therefore, the Tribunal composed of Judge Patrick L. Robinson (President), Mr. Stanimir A. Alexandrov and Professor Bernard Audit, Arbitrators, after deliberation makes the following order:
- a) The proceedings in the present ICSID Case No. ARB/09/13 with respect to the Claimant Privatization Holding Company (PHC) are hereby discontinued and the said Privatization Holding Company (PHC) shall cease to be a party to the present case with effect from today.
 - b) The proceedings in the present ICSID Case No. ARB/09/13 shall continue in all other respects.

[Signed]

Patrick L. Robinson

President of the Tribunal

February 26, 2010