

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

In the Matter of the Arbitration between

RAILROAD DEVELOPMENT CORPORATION
Claimant

and

REPUBLIC OF GUATEMALA
Respondent

ICSID CASE No. ARB/07/23

—
PROCEDURAL ORDER No. 1
—

MEMBERS OF THE TRIBUNAL

Dr. Andrés Rigo Sureda, President
Honorable Stuart E. Eizenstat, Arbitrator
Professor James Crawford, Arbitrator

DATE: November 20, 2008

PROCEDURAL ORDER NO. 1

Pursuant to Rule 19 of the Rules of Procedure for Arbitration Proceedings (“Arbitration Rules”) of the Centre and CAFTA Article 10.20.5 the Arbitral Tribunal issues the following Procedural Order for the continuation of the proceedings on the merits in the present case.

CONSIDERING THAT:

1. On May 29, 2008, the Respondent submitted an objection to the jurisdiction of the Tribunal under CAFTA Article 10.20.5, based on the Claimant’s failure to comply with the requirements of CAFTA Article 10.18.2(b). As provided by CAFTA Article 10.20.5, the Respondent requested that the Tribunal consider the objection on an expedited basis and requested the suspension of the proceedings. The Respondent also requested the first session of the Tribunal to be suspended.
2. On June 5, 2008, the Tribunal suspended the proceeding on the merits as required by CAFTA Article 10.20.5 but confirmed the date for the first session.
3. On June 13, 2008, the Tribunal held the first session with the parties. During the session the parties agreed to a timetable for submission of a Counter-Memorial, a Reply and a Rejoinder in respect to the Objection to Jurisdiction.
4. During the session, it was further agreed that, should the proceeding continue after the decision of the Tribunal on the Respondent’s objection pursuant to CAFTA Article 10.20.5, the written phase of the proceeding would consist of the following pleadings: (i) a Memorial, (ii) a Counter-Memorial, (iii) a Reply, and (iv) a Rejoinder. The President of the Tribunal noted that the procedural calendar shall consider the possibility that non-disputing CAFTA parties have the right to make oral and written observations to the tribunal regarding the interpretation of CAFTA.

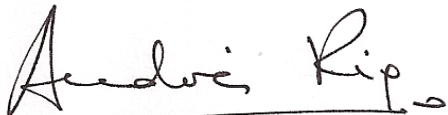
5. According to the schedule agreed during the first session, the Claimant filed its Counter-Memorial on Jurisdiction on July 11, 2008, the Respondent filed its Reply on August 11, 2008, and the Claimant filed its Rejoinder on September 11, 2008.
6. On October 10, 2008, the Tribunal and the parties held a hearing on jurisdiction in Washington D.C.
7. On November 17, 2008, the Tribunal dismissed the objection to jurisdiction raised by the Respondent pursuant to CAFTA Article 10.20.5.

THEREFORE:

The Tribunal has decided to:

- (i) Order the continuation of the proceedings on the merits;
- (ii) Grant the parties until December 8, 2008 to propose, jointly, a calendar for the filing of the pleadings on the merits. In the event the parties are not able to agree on a calendar, the Tribunal will fix the time limits for the submission of the pleadings pursuant to Arbitration Rule 26.
- (iii) The Tribunal shall thereafter fix a date for a hearing on the merits, after consultation with the parties.

On behalf of the Arbitral Tribunal



Dr. Andrés Rigo Sureda
President