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3 July 2017

RE: PCA CASE N° AA662 - FONDATION "PRESIDENT ALLENDE" ET AL. (SPAIN) V. THE REPUBLIC OF CHILE

Dear Mesdames, dear Sirs,

The Permanent Court of Arbitration (the “PCA”) acknowledges receipt, by e-mail, of the letter dated 30 June 2017 from the Respondent, in which it asserts, *inter alia*, that the Claimants’ challenge to Mr. Stephen L. Drymer is premature given “the fact that he ha[s] not yet been appointed as arbitrator” (Respondent’s letter dated 30 June 2017, p. 9). The Respondent further asserts that “in the event that the PCA has decided to recognize Claimants’ purported UNCITRAL “Notice” as giving rising to a new arbitral proceeding – which, for the reasons explained above, Chile considers improper – Chile hereby designates Mr. Drymer as its party-appointed arbitrator for such proceeding” (Respondent’s letter dated 30 June 2017, p. 12).

The PCA also acknowledges receipt of the Claimants’ letter dated 1 July 2017, in which they contend that the Respondent has indicated that “it has not yet appointed Mr. Stephen L. Drymer as arbitrator without ambiguity, condition or assumption, [and], [a]s a result, respectfully request that [the PCA] appoint the second arbitrator, in accordance with Article 9(2) of the UNCITRAL Rules” (Claimants’ letter dated 1 July 2017, p. 1, our translation).

Notwithstanding the Respondent’s objections, the PCA finds no sufficient reason to deem that the Claimants’ Notice of Arbitration did not commence new proceedings under Article 3 of the UNCITRAL Rules and Article 10(3) of the Chile-Spain BIT. In accordance with Articles 3(5) and 23(1) of the UNCITRAL Rules, any objections regarding the Notice of Arbitration or the jurisdiction of the tribunal shall be decided by the tribunal.

The PCA understands from the Claimants’ letter dated 1 July 2017 that the Claimants withdraw their request that the Secretary-General of the PCA decide the challenge to Mr. Drymer under Article 13 of the UNCITRAL Rules and put forward a new request that the Secretary-General of the PCA appoint the second arbitrator under Article 9(2) of the UNCITRAL Rules. The Respondent is invited to submit any comments it may have on this new request by **Monday, 10 July 2017**. At the same time, the Respondent is invited to indicate whether it has agreed or agrees now to the Secretary-General of the PCA acting as appointing authority in this matter.

Should you have any questions concerning this letter, please do not hesitate to contact me or my colleague Mr. Martin Doe Rodríguez, Senior Legal Counsel (mdoe@pca-cpa.org; +31 70 302 4140).

A copy of this letter in French is enclosed.

Yours sincerely,



Claire de Tassigny Schuetze
Senior Legal Counsel

Encl.: French version of the present letter

cc: Prof. Hélène Ruiz Fabri (by e-mail: helene.ruizfabri@mpi.lu)
Mr. Stephen L. Drymer (by e-mail: sdrymer@woods.qc.ca)