


De: Myklebust, Olav olav.myklebust@mfa.no 
Objet: RE: ICSID Case ARB/20/11: Conferral on Procedural Issues
Date: 11 septembre 2020 à 20:06
À: Pierre-Olivier Savoie pierre-olivier.savoie@savoielaporte.com
Cc: Alain Pellet courriel@alainpellet.eu, Alina MIRON mail@alinamiron.fr, Eirik Bjorge eirik.bjorge@bristol.ac.uk, Justine Touzet justine.touzet@savoielaporte.com, Jervell, Kristian kristian.jervell@mfa.no, Léna Kim lena.kim@savoielaporte.com, Ludovic Legrand ludovic.legrandsibeoni@gmail.com, Mads Andenæs mads.andenas@jus.uio.no, Mubarak Waseem MWaseem@essexcourt.net, Norum, Margrethe Margrethe.Norum@mfa.no, Pierre-Olivier Laporte pierre-olivier.laporte@savoielaporte.com, Vaughan Lowe vlowe@essexcourt.net, Seland, Helge helge.seland@mfa.no, Nygård, Kristina Kvamme Kristina.Kvamme.Nygard@mfa.no, Sandaa, Eirik Wold Eirik.Wold.Sandaa@mfa.no, Havn, Anne Anne.Havn@mfa.no

Dear Mr. Savoie,

As agreed, please find enclosed the draft procedural order no 1 from the Tribunal with Respondent's proposals inserted in red, as well as two additional draft annexes (B and C) prepared by us.

In the interest of transparency, we remain unconvinced of the need for a confidentiality order as you have proposed. We thus reserve our position on that issue.

As mentioned earlier, we would appreciate your written comments to our proposals by Tuesday 15 September in order to prepare for our video conference Thursday 17 September 2020. We would like to suggest that the video conference take place at 14.00 Paris/Oslo time and may send you an invitation by email providing a link through Skype for Business and information on other ways in which to connect if needed. Please inform us if this is agreeable to you and provide us with the names and email addresses of other participants on the Claimants' side that should receive the invitation to the video conference.

Best regards,



Olav Myklebust

Seniorrådgiver/Senior Adviser
Utenriksdepartementet/Norwegian Ministry of Foreign Affairs
Mobile: +47.940.85.699
Office: +47.23.95.10.62

From: Pierre-Olivier Savoie <pierre-olivier.savoie@savoielaporte.com>

Sent: onsdag 9. september 2020 10:51

To: Myklebust, Olav <olav.myklebust@mfa.no>

Cc: Alain Pellet <courriel@alainpellet.eu>; Alina MIRON <mail@alinamiron.fr>; Eirik Bjorge <eirik.bjorge@bristol.ac.uk>; Justine Touzet <justine.touzet@savoielaporte.com>; Jervell, Kristian <kristian.jervell@mfa.no>; Léna Kim <lena.kim@savoielaporte.com>; 'Ludovic Legrand' <ludovic.legrandsibeoni@gmail.com>; Mads Andenæs <mads.andenas@jus.uio.no>; 'Mubarak Waseem' <MWaseem@essexcourt.net>; Norum, Margrethe <Margrethe.Norum@mfa.no>; Pierre-Olivier Laporte <pierre-olivier.laporte@savoielaporte.com>; 'Vaughan Lowe' <vlowe@essexcourt.net>; Seland, Helge <helge.seland@mfa.no>; Nygård, Kristina Kvamme <Kristina.Kvamme.Nygard@mfa.no>; Sandaa, Eirik Wold <Eirik.Wold.Sandaa@mfa.no>; Havn, Anne <Anne.Havn@mfa.no>

Subject: Re: ICSID Case ARB/20/11: Conferral on Procedural Issues

Dear Mr. Myklebust,

We confirm our agreement to Respondent's proposal found in your email of yesterday 18 :29 below.

If the Respondent wishes to confirm with the Tribunal the agreement of the parties in respect of a new proposed date to provide the parties' positions on procedural issues, the Claimants will confirm such joint proposal by way of a subsequent email.

Best regards,

Pierre-Olivier Savoie
Avocat à la Cour



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De : "Myklebust, Olav" <olav.myklebust@mfa.no>
Date : mardi 8 septembre 2020 à 18:29
À : Pierre-Olivier Savoie <pierre-olivier.savoie@savoielaporte.com>
Cc : Alain Pellet <courriel@alainpellet.eu>, Alina MIRON <mail@alinamiron.fr>, Eirik Bjorge <eirik.bjorge@bristol.ac.uk>, Justine Touzet <justine.touzet@savoielaporte.com>, "Jervell, Kristian" <kristian.jervell@mfa.no>, Léna Kim <lena.kim@savoielaporte.com>, 'Ludovic Legrand' <ludovic.legrandsibeoni@gmail.com>, Mads Andenæs <mads.andenas@jus.uio.no>, 'Mubarak Waseem' <MWaseem@essexcourt.net>, "Norum, Margrethe" <Margrethe.Norum@mfa.no>, Pierre-Olivier Laporte <pierre-olivier.laporte@savoielaporte.com>, 'Vaughan Lowe' <vlowe@essexcourt.net>, "Seland, Helge" <helge.seland@mfa.no>, "Nygård, Kristina Kvamme" <Kristina.Kvamme.Nygard@mfa.no>, "Sandaa, Eirik Wold" <Eirik.Wold.Sandaa@mfa.no>, "Havn, Anne" <Anne.Havn@mfa.no>
Objet : RE: ICSID Case ARB/20/11: Conferral on Procedural Issues

Dear Mr Savoie,

Further to our e-mail below, due to ICJ pleadings next week, we would like to suggest that the video conference take place Thursday 17 September rather than 15 or 16 September.

To allow for more time to prepare the submissions to the Tribunal after the video conference, we could then inform the Tribunal that the Parties are in agreement to make our submissions by Monday 21 September rather than Friday 18 September. With this schedule we would appreciate receiving your written comments to our proposals by Tuesday 15 September.

We would welcome your response to these suggestions at your earliest convenience.

Best regards,



Olav Myklebust

Seniorrådgiver/Senior Adviser

Utenriksdepartementet/Norwegian Ministry of Foreign Affairs

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From: Myklebust, Olav

Sent: tirsdag 8. september 2020 08:24

To: 'Pierre-Olivier Savoie' <pierre-olivier.savoie@savoielaporte.com>

Cc: Alain Pellet <courriel@alainpellet.eu>; Alina MIRON <mail@alinamiron.fr>; Eirik

Bjorge <eirik.bjorge@bristol.ac.uk>; Justine Touzet

<justine.touzet@savoielaporte.com>; Jervell, Kristian <kristian.jervell@mfa.no>; Léna

Kim <lena.kim@savoielaporte.com>; 'Ludovic Legrand'

<ludovic.legrandsibeoni@gmail.com>; Mads Andenæs <mads.andenas@jus.uio.no>;

'Mubarak Waseem' <MWaseem@essexcourt.net>; Norum, Margrethe

<Margrethe.Norum@mfa.no>; Pierre-Olivier Laporte <[\[olivier.laporte@savoielaporte.com\]\(mailto:olivier.laporte@savoielaporte.com\)>; 'Vaughan Lowe' <\[vlowe@essexcourt.net\]\(mailto:vlowe@essexcourt.net\)>;](mailto:pierre-</p></div><div data-bbox=)

Seland, Helge <helge.seland@mfa.no>; Nygård, Kristina Kvamme

<Kristina.Kvamme.Nygard@mfa.no>; Sandaa, Eirik Wold

<Eirik.Wold.Sandaa@mfa.no>; Havn, Anne <Anne.Havn@mfa.no>

Subject: RE: ICSID Case ARB/20/11: Conferral on Procedural Issues

Dear Mr. Savoie,

With reference to your e-mail of 1 September (below), we would like to confirm that we will provide comments and positions to the Claimants on issues addressed in the Tribunal's draft procedural order no 1 by Friday 11 September.

We agree that it will be useful to have a video conference meeting in the afternoon of 15 or 16 September. In order to facilitate such a meeting, we request you to make written comments to our positions at your earliest convenience. If your comments are received by Sunday 13 September, we would be prepared for a meeting on either of those dates.

Best regards,



Olav Myklebust

Seniorrådgiver/Senior Adviser
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From: Pierre-Olivier Savoie <pierre-olivier.savoie@savoielaporte.com>
Sent: tirsdag 1. september 2020 14:48
To: Seland, Helge <helge.seland@mfa.no>
Cc: Alain Pellet <courriel@alainpellet.eu>; Alina MIRON <mail@alinamiron.fr>; Eirik Bjorge <eirik.bjorge@bristol.ac.uk>; Justine Touzet <justine.touzet@savoielaporte.com>; Jervell, Kristian <kristian.jervell@mfa.no>; Léna Kim <lena.kim@savoielaporte.com>; 'Ludovic Legrand' <ludovic.legrandsibeoni@gmail.com>; Mads Andenæs <mads.andenas@jus.uio.no>; 'Mubarak Waseem' <MWaseem@essexcourt.net>; Myklebust, Olav <olav.myklebust@mfa.no>; Norum, Margrethe <Margrethe.Norum@mfa.no>; Pierre-Olivier Laporte <pierre-olivier.laporte@savoielaporte.com>; 'Vaughan Lowe' <vlowe@essexcourt.net>
Subject: Re: ICSID Case ARB/20/11: Conferral on Procedural Issues

Dear Mr. Seland,

We write to follow up on the Tribunal's request of 28 August that the parties confer on procedural issues, including the possibility of agreeing to a Confidentiality Order.

Claimants have studied the Tribunal's proposed Procedural Order No. 1 and note that many points are left to the parties to discuss. Claimants further note that Respondent has been in possession of Claimants' proposals on most if not all of these issues since 11 August 2020. Claimants further recall their request to Respondent to put forward its position on a Confidentiality Order by 11 September. Claimants propose that Respondent provide all of its comments on Claimants' various proposals by 11 September so the parties have one week to try to further agree on any outstanding issues as the parties should send their joint positions and any outstanding disagreements to the Tribunal by 18 September.

Claimants wish to note two points in particular:

- Claimants made requests to the government of Norway for delivery of documentation under the Freedom of Information Act. An objection was made to such requests (see Respondent's email of 21 August of 8:16am from Mr. Myklebust and Claimants' response thereto of the same day). Claimants believe FOIA requests and document production requests in an ICSID arbitration are unrelated, since responses to FOIA requests should be blind as to the motive and identity of applicants, and because

anyone has the right to make FOIA requests, which right is not modified by the regime governing document production under the ICSID Convention and rules. Claimants therefore reserve the right, depending on Respondent's position, to propose moving up the schedule of document production requests, including on all aspects of the arbitration.

- As noted in Claimants' letter of 28 August, Claimants believe documents pertaining to settlement negotiations and amicable discussions should not be disclosed to third parties. Claimants suggest that the parties incorporate these principles explicitly in the Confidentiality Order and otherwise and look forward to Respondent's input on the issue.

Based on the above, Claimants suggest that Respondent put forth its position on all procedural issues, including confidentiality and disclosure, by 11 September. This will give the parties an additional week to confer and try to come to an agreement on as many issues as possible. The Claimants suggest that counsel for the parties hold a call to discuss any outstanding issues in the afternoon of 15 or 16 September. Claimants note that even if there are certain issues the parties do not agree on by 18 September, the parties will still have an additional 10 days prior to the first session to further try to agree on any outstanding issues.

We would be grateful if Respondent could confirm promptly that it is agreeable to the above schedule for the parties to confer on procedural issues.

Best regards,

Pierre-Olivier Savoie
Avocat à la Cour



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De : Pierre-Olivier Savoie <pierre-olivier.savoie@savoielaporte.com>

Date : lundi 31 août 2020 à 12:06

À : "Seland, Helge" <helge.seland@mfa.no>

Cc : Alain Pellet <courriel@alainpellet.eu>, Alina MIRON <mail@alinamiron.fr>,
Philippe...

Eirik Bjorge <eirik.bjorge@bristol.ac.uk>, Justine Touzet <justine.touzet@savoielaporte.com>, "Jervell, Kristian" <kristian.jervell@mfa.no>, Léna Kim <lena.kim@savoielaporte.com>, 'Ludovic Legrand' <ludovic.legrandsibeoni@gmail.com>, Mads Andenæs <mads.andenas@jus.uio.no>, 'Mubarak Waseem' <MWaseem@essexcourt.net>, "Myklebust, Olav" <olav.myklebust@mfa.no>, "Norum, Margrethe" <Margrethe.Norum@mfa.no>, Pierre-Olivier Laporte <pierre-olivier.laporte@savoielaporte.com>, 'Vaughan Lowe' <vlowe@essexcourt.net>
Objet : Re: ICSID Case ARB/20/11: Claimants' letter to Respondent on Issues of Disclosures

Dear Mr. Seland,

To follow up on our letter of Friday, please find attached the versions of the notice of dispute and of the Request for Arbitration claimants plan to make public. As mentioned in our letter of Friday, we would appreciate any comments you may have on Claimants' proposed redactions by Friday 4 September. The redactions are not extensive.

Best regards,

Pierre-Olivier Savoie
Avocat à la Cour



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De : Pierre-Olivier Savoie <pierre-olivier.savoie@savoielaporte.com>

Date : vendredi 28 août 2020 à 22:14

À : "Seland, Helge" <helge.seland@mfa.no>

Cc : Phoebe Ngan <noreply@box.com>, Leah Waithira Njoroge <lnjoroge@worldbank.org>, Alain Pellet <courriel@alainpellet.eu>, Alina MIRON <mail@alinamiron.fr>, Eirik Bjorge <eirik.bjorge@bristol.ac.uk>, Justine Touzet <justine.touzet@savoielaporte.com>, "Jervell, Kristian" <kristian.jervell@mfa.no>, Léna Kim <lena.kim@savoielaporte.com>, 'Ludovic Legrand' <ludovic.legrandsibeoni@gmail.com>, Mads Andenæs <mads.andenas@jus.uio.no>, 'Mubarak Waseem' <MWaseem@essexcourt.net>, "Myklebust, Olav" <olav.myklebust@mfa.no>, "Norum, Margrethe" <Margrethe.Norum@mfa.no>, Pierre-Olivier Laporte <pierre-olivier.laporte@savoielaporte.com>, 'Vaughan Lowe' <vlowe@essexcourt.net>

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Objet : ICSID Case ARB/20/11: Claimants' letter to Respondent on Issues of Disclosures

Dear Mr. Seland,

Please find attached Claimants' letter of this day in respect of the above-noted matter, as well as updated exhibit and authorities lists. Please also find a link to download Claimants' additional exhibits and authorities, which will also be uploaded to BOX:

- <https://we.tl/t-sCTk9HWpB1>

Best regards,

Pierre-Olivier Savoie
Avocat à la Cour



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