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By email

Geneva, 20 July 2018

PCA No. 2018-37: Doutremepuich vs. The Republic of Mauritius

Dear Madame President,
Dear Members of the Tribunal,

As invited by the Tribunal in its letter of 13 July 2018, the Respondent sets out below its response to the Claimants' comments on the place of the arbitration and the language of these proceedings, as set out in the Claimants' letter dated 12 July 2018. The Respondent also indicates below its availability for the Case Management Conference as directed by the Tribunal in its letter of 18 July 2018.

1 PLACE OF ARBITRATION

The Respondent notes that the Parties agree on the use of the PCA's hearing facilities for these proceedings.

As for the Claimants' renewed proposal that Paris be the legal seat of the arbitration, the Respondent reiterates its position that Paris would be wholly inappropriate as it is not neutral (as indeed highlighted by the Claimants' own arguments in support of their proposal). Indeed it would be equally inappropriate for the Republic of Mauritius to suggest Port Louis in Mauritius. The seat must be neutral to both Parties, and it must be supported by an appropriate legal framework and a fair and efficient judicial system, and it must be practical. Both Geneva and London qualify under these criteria.

If the Tribunal were minded to consider any seat other than Geneva and London, the Respondent respectfully requests that the Parties be consulted before any decision is taken.

2 LANGUAGE OF THE PROCEEDINGS

The Respondent disagrees with the Claimants' submission that the Republic of Mauritius has no official language. Whilst Mauritians are also francophones, Mauritius' official language is English,¹ including before the Supreme Court of Mauritius (Section 14(1) of the Courts Act), where parties wishing to use a language other than English are required to resort to sworn in interpreters. English is thus the language used in official written communications, including in this case, contrary to the Claimants' allegation to the contrary (p. 2 of Claimants' letter, 1st para.). English is also the language used by the Attorney General Office in the conduct of proceedings such as the present one and the language used to report on the matter to the Government and governmental authorities.

On the other hand, considerations such as the language that counsel for one or the other Party or, *a fortiori*, that (unknown) third parties who may be interested in this matter, may be more comfortable with, as well as the language of the

¹ See the Government of Mauritius' official Website: "*English is the official language. French is extensively used and Creole is widely spoken. Asian languages also form part of the linguistic mosaic.*" at <http://www.govmu.org/English/ExploreMauritius/Geography-People/Pages/Language.aspx>

judiciary in the possible place of enforcement of an award hypothetically favourable to the Claimants, are simply irrelevant, if not inappropriate.

As to the Claimants' proposal for the use of both English and French, the Respondent has already agreed that all evidence (which obviously includes testimony evidence) may be submitted and referred to in either French or English with no need for translation (or interpretation), provided that this is agreeable also to the Tribunal.

The Respondent's position remains that having pleadings submitted in two different languages would be impractical and inefficient. It would also inevitably result in argument between the Parties about the adequacy of the translations used, if not confusion, and in additional costs. The Respondent therefore reiterates its proposal that English be the language used in pleadings and in the Tribunal's decisions whilst evidence and legal authorities may be submitted in either French or English with no translation.

3 CASE MANAGEMENT CONFERENCE

The Respondent confirms that the Respondent's counsel and a party representative of the Republic of Mauritius would be available for a Case Management Conference at 3pm CET on 27 September 2018.

Yours sincerely,



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