

ICSID Case No. ARB/07/5

**GIOVANNA A BECCARA AND OTHERS
(CLAIMANTS)**

and

**THE ARGENTINE REPUBLIC
(RESPONDENT)**

PROCEDURAL ORDER NO. 6

6 APRIL 2010

Considering that:

1. The Tribunal refers to its Procedural Orders No. 4 and 5, the purpose of which was to regulate the use of documents for witness and expert examination in order to ensure an efficient and constructive preparation and conduct of the hearing on preliminary issues, and in particular of the witness and expert examinations.
2. Following an exceptional extension of the deadline for submission of the list of documents to be used for witness and expert examination, Respondent submitted on 5 April 2010 an additional list of 80 documents (among the documents submitted on 3 June 2009), representing over 3,000 pages.
3. On the same day, by letter of April 5, 2010, Claimants raised several objections to the documents listed on Respondent's list.
4. The Tribunal has taken due note of the Parties' positions as reflected in their various submissions.
5. Having regard to the Tribunal's power to determine the conduct of the proceedings,
 - (i) the Tribunal intends to strictly follow the requirements set forth in and the aim pursued by its Procedural Orders;
 - (ii) the Tribunal intends to ensure that the witness and expert examinations are conducted within the scope of admissible and appropriate examination, whilst simultaneously giving due consideration to the Parties' right to equal treatment and right to be heard;

The Tribunal decides as follows:

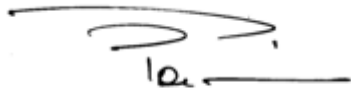
- (1) RE-411 and RE-412 refer to expert reports issued by Prof. Christoph Schreuer in another arbitration proceeding. They are therefore excluded from the record of the present arbitration as decided in the Procedural Order No. 3 and may therefore not be used during the hearing;
- (2) With regard to Dr Cottani's cross-examination, among the documents listed on its list of 5 April 2010, Respondent is only allowed to use RE-515 and RE 533. All other documents designated in Respondent's list of 5 April 2010 and to be used for Dr Cottani's cross-examination do not seem to refer to the

subject matter of Dr Cottani's expert report concerning Argentina's bond issuance strategy and are therefore not allowed for use during the hearing;

- (3) With regard to Mr Cerniglia's cross-examination, the Tribunal finds that the number of documents designated by Respondent (69) is excessive. Respondent shall therefore limit the number of total documents to be used for the examination of Mr Cerniglia (*including documents listed on both the list of 26 March and of 5 April 2010*) to a maximum of 30 documents and indicate which specific Exhibits it intends to use, which designation Respondent shall make within the time limit set forth in paragraph 6 below;
 - (4) With regard to Exhibits RC-178, RC-179, RC-180, RE-364, RE-374, RE-383, RE-392, RE-403, RE-407, RE-408, RE-414, RE-415, RE-417, RE-420, RE-425, RE-432, RE-437, RE-438, RE-446, RE-447, RE-450, RE-451, RE-453, RE-454, RE-456, RE-458, RE-459, RE-460, RE-467, RE-587, RE-588, designated for the use during the cross-examination of Prof. Schreuer, Prof. Dolzer and Prof. Reisman without distinction, Respondent shall specify which Exhibit (specific relevant page or pages) it plans to use for which expert;
 - (5) With regard to Exhibits RE-461, RE-581 and RE-582, designated for the use during the cross-examination of Prof. Schreuer, Prof. Dolzer and Prof. Reisman without distinction, the Tribunal notes that these documents refer to general legal material and represent over 1,600 pages. The Respondent shall specify per expert which specific relevant page or pages of each Exhibit will be used;
 - (6) The Tribunal notes that in the column "purpose" of Respondent's lists of 26 March 2010 and 5 April 2010, Respondent has not specified the reasons why the listed documents are important for the concerned examination, and has simply asserted their relevance. The Arbitral Tribunal recalls that in this context, relevance refers to the specific documents within the scope of the expert's reports or witness' statements;
6. Respondent is given until **Tuesday 5:30 pm (D.C. time)** to comply with the instructions set forth in par. (3), (4) and (5).

7. Procedural Order No. 5 remains in effect with regard to the documents listed on the Parties' list of 26 March 2010 to the extent that it has not been modified by the Tribunal's communication of 5 April 2010 and/or the present Procedural Order No. 6.

On behalf of the Tribunal,

A handwritten signature in black ink, appearing to be 'P. Tercier', written over a horizontal line.

Pierre Tercier,
Chairman