ICSID Case No. ARB/07/5

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

and

THE ARGENTINE REPUBLIC
(RESPONDENT)

PROCEDURAL ORDER NO. 8

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03 AUGUST 2010

CONSIDERING:

1. The decision of the Tribunal announced during the Hearing (see English Transcript, Day 7, p. 1943 l. 1 to p. 1944 l. 11) and reiterated in its letter of 22 April 2010, requesting both Parties to submit their Statement of Cost for the jurisdictional phase within thirty days after the filing of their Post Hearing Briefs;

2. The Tribunal's decision to postpone the deadline for submission of the Post Hearing Briefs to 22 June 2010 upon Respondent's request and with Claimants' agreement (see Email from ICSID of 8 June 2010), which had the effect to postpone the deadline for submission of the Parties' Statement of Cost to 22 July 2010;

3. Claimants' request of 22 July 2010 to postpone the deadline for submission of their Statement of Cost to (i) after any decision dismissing the claims for lack of jurisdiction; or (ii) thirty days after any Award determining liability, as the case may be, as well as Claimants' request to be given until 26 July 2010 to further substantiate their request;

4. Respondent's answer of 22 July 2010, in which Respondent (i) did not object giving Claimants an opportunity to elaborate upon the reasons for their request until 26 July 2010; and (ii) reserved the right to express its final opinion on the postponement of the deadline for submission of the Statement of Cost after having had the opportunity to study and comment on Claimants' reasons;

5. The Tribunal's decision of 23 July 2010, in which the Tribunal granted Claimants until 26 July 2010 to elaborate on the reasons for their request and invited Respondent to comment thereon by 30 July 2010. The Tribunal further invited the Parties to refrain from submitting their Statement of Cost until the Tribunal issues a decision on Claimants' request for postponement, while at the same time preparing to submit such Statement of Cost within 24 hours upon the rendering of the Tribunal's decision in the event that the Tribunal would reject Claimants' request;

6. Claimants' letter of 26 July 2010, in which Claimants elaborated on the reasons for their request for postponement of the deadline for submission of their Statement of Cost. Claimants base their request on the following main arguments: (i) that the issue of costs is not ripe and linked to considerable time and efforts,

which would not be necessary at this stage; (ii) that the submission of Statements of Cost would risk to unnecessarily exacerbate the dispute, and (iii) that Claimants' Statement of Cost would need to be complemented with a full briefing of the relevance of the factual circumstances that led to the initiation of this proceeding in order to allow the Tribunal to take into account all elements and facts relevant to the decision on costs;

7. Respondent's response of 27 July 2010, in which Respondent noted that "*Claimants have not expressed any valid reason that would justify a failure by the parties to submit their costs*" and reiterated that it was in a position to submit its costs forthwith;

8. The Tribunal's power to determine the conduct of the proceedings as deriving from Rule 19 of the ICSID Arbitration Rules;

THE TRIBUNAL DECIDES AS FOLLOWS:

With regard to Claimants' request of 22 and 26 July 2010 for postponement of the deadline for submission of the Parties' Statements of Cost until after the Tribunal's decision on jurisdiction and depending on the outcome of such decision, the Tribunal holds that a postponement of such deadline is not justified based on the following main reasons:

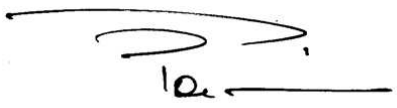
- The decision to request the submission of Statements of Cost within thirty days upon the filing of the Post Hearing Briefs has been duly discussed at the Hearing and resulted from a common agreement of the Parties' Counsel and the Tribunal;
- This decision was confirmed by the Tribunal in its letter of 22 April 2010, whereby none of the Parties objected thereto;
- Claimants' arguments set forth in their letter of 26 July 2010 do not seem convincing since:
  - *(i)* The preparation of Statements of Cost will sooner or later be necessary and Claimants had ample time to make the necessary arrangements;
  - *(ii)* The risk of exacerbating the dispute is limited given that the issue of cost is independent from the substance of the case;

(iii) The Tribunal is of the opinion that the submissions of the Parties contain already ample background information on the circumstances that relate to the initiation and conduct of the present arbitration. In any case, if based on the Statements of Cost submitted by the Parties, the Tribunal deems that it requires further clarification or that certain aspects thereof need to be complemented, nothing prevents the Tribunal from requesting such clarification or information from the Parties;

- Claimants' objections are not of a nature which prevented Claimants from bringing them forward at an earlier stage. Instead, Claimants filed their request for postponement of the deadline on the day on which the Statements of Cost were due.

The Tribunal herewith rejects Claimants' request for postponement of the deadline for submission of the Parties' Statements of Cost, and invites both Parties to submit their respective Statement of Cost for the jurisdictional phase within 24 hours upon receipt of this Procedural Order No. 8.

On behalf of the Tribunal,



Pierre Tercier,
Chairman