

July 8, 2020

By email

Vattenfall AB and others
c/o Professor Dr. Kaj Hobér
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and
c/o Mr. Jakob Ragnwaldh
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Federal Republic of Germany
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c/o Ms. Annette Tiemann, LL.M.
Bundesministerium für Wirtschaft und
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Re: Vattenfall AB and others v. Federal Republic of Germany
(ICSID Case No. ARB/12/12)

Dear Mesdames and Sirs,

On April 16, 2020, the Federal Republic of Germany, the Respondent in the above-referenced case, filed a Proposal to Disqualify the Members of the Tribunal (the “Proposal”).

The Proposal was submitted pursuant to Articles 14 and 57 of the ICSID Convention and Rule 9 of the ICSID Arbitration Rules. Article 57 provides that a party may propose the disqualification of an arbitrator on account of any fact indicating a manifest lack of the qualities required by Article 14(1).

Under Article 58 of the ICSID Convention and ICSID Arbitration Rule 9, it falls upon the Chairman of the ICSID Administrative Council to decide the Proposal.

By letter of April 17, 2020, the Centre informed the parties that it would seek a recommendation on the Proposal from the Secretary-General of the Permanent Court of

Arbitration at The Hague. The Centre confirmed that the final decision on the Proposal would be taken by the Chairman of the ICSID Administrative Council in accordance with Article 58 of the ICSID Convention.

The parties have been given a full opportunity to present their positions on this matter. The Centre provided the Permanent Court of Arbitration with copies of all the parties' submissions on the Proposal and the explanations furnished by the arbitrators.

The Centre received the recommendation from the Secretary-General of the Permanent Court of Arbitration on July 6, 2020. A copy of the recommendation is attached.

I have carefully considered the Proposal, in light of the parties' written arguments, the arbitrators' explanations, and the recommendation from the Secretary-General of the Permanent Court of Arbitration. Based on these materials, I have concluded that the Proposal does not meet the standard set forth in Article 57 of the ICSID Convention for the disqualification of an arbitrator.

Accordingly, the Federal Republic of Germany's Proposal to Disqualify the Members of the Tribunal is hereby rejected.

Yours sincerely,

[signed]

David Malpass
Chairman of the Administrative Council

Attachment

cc (by email, with attachment):

Professor Albert Jan van den Berg
The Honorable Charles Brower
Professor Vaughan Lowe, QC