

ICSID Case No. ARB/07/5

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

and

**THE ARGENTINE REPUBLIC
(RESPONDENT)**

PROCEDURAL ORDER NO. 7

20 MAY 2010

CONSIDERING:

1. The Tribunal's decision regarding the submission and admissibility of new documents as set forth in its email of 13 April 2010 and as reiterated during the Hearing (see English Transcript, Day 7, p. 1873 l. 20-22 to p. 1874 l. 1-8);
2. Respondent's letter of 5 May 2010, in which Respondent requests the admission of (i) the US Supreme Court Judgment and Briefings of Petitioners in "Stolt-Nielsen" S.A. et al. v. Animalfeeds International Corp, (ii) CONSOB's authorization of the New Exchange Offer of the Argentine Republic and (iii) two letters the Respondent has received in two other ICSID arbitrations against the Argentine Republic and allegedly involving some of the present Claimants;
3. Claimants' letter of 5 May 2010, in which Claimants request the Tribunal (i) to reject Respondent's in its entirety based on the arguments that Respondent's requests are not be properly motivated because the new documents are completely irrelevant to the eleven jurisdictional issues, and (ii) alternatively, should the Tribunal grant Respondent's request, in whole or in part, Claimants request the Tribunal to admit the following "responsive documents": the Italian Prospectus to Argentina's New Exchange Offer; the *Latin Business Chronicle* mentioned in Claimants' letter; the 22 April 2010 article in *Ambito Financiero*; the press report published by Argentina on 14 April 2010 regarding alleged corruption in connection with the New Exchange Offer. In addition, Claimants request the Tribunal to admit the decision of the US District Court for the Southern District of New York of 7 April 2010 (hereafter referred to as "7 April 2010 SDNY decision") into the record for use in Claimants' post-hearing submission;
4. Respondent's letter of 7 May 2010 stating that Respondent does not object to the introduction of any of the documents referred to in Claimants' letter, while reserving its position on the contents of such documents;
5. The Tribunal's letter of 10 May 2010 inviting Respondent to complement its submission of 7 May 2010 by 11 May 2010 inviting Claimants to respond thereto by 14 May 2010;
6. Respondent's letter of 11 May 2010, in which Respondent substantiates the relevance of the documents it seeks to introduce;

7. Claimants' letter of 14 May 2010, in which Claimants reiterate their objections to the admission of the documents Respondent seeks to introduce and confirm their request for admission of the 7 April SDNY decision;

THE TRIBUNAL DECIDES AS FOLLOWS:

- (1) With regard to the US Supreme Court Decision in the "Stolt-Nielsen" case, the Tribunal takes note that is a public court decision and therefore sees no reason to refuse its admission into the record. As concerns the potential relevancy of such decision, it shall be freely appreciated by the Tribunal under due consideration of both Parties positions.

The Tribunal herewith admits the US Supreme Court Decision in the "Stolt-Nielsen" case in the record of these proceedings and for use by either Party in its Post-Hearing Brief.

- (2) With regard to the Briefings of Petitioners submitted in the "Stolt-Nielsen" case, the Tribunal takes note that such documents seem to be publicly available. However, in the light of its Procedural Order No. 3 (par. 101-105), the risks related to the out of context use of parties' pleadings and written memorials and the need to preserve the integrity of the proceedings, the Tribunal is reluctant to admit documents of this kind. In addition, the introduction of these documents would not constructively contribute to the debate on Issue 1 and the US Supreme Court's decision may not be interpreted in the light of the Briefings without consideration of the remaining case files. It thus deems that the admission of the Briefings is unnecessary and inappropriate.

The Tribunal herewith rejects Respondent request with regard to the Briefings of Petitioners submitted in the "Stolt-Nielsen". Neither Party may use these Briefings or any excerpt there from for its Post-Hearing Brief.

- (3) With regard to CONSOB's "Authorization Letter" concerning Argentina's New Exchange Offer, the Tribunal notes that this authorization is an official and publicly accessible document. It therefore sees no reason to refuse its admission. As concerns the potential relevancy of such decision for the present case, it shall be freely appreciated by the Tribunal under due consideration of both Parties positions.

The Tribunal herewith admits CONSOB's "Authorization Letter" into the record of these proceedings and for use by either Party in its Post-Hearing Briefs.

- (4) With regard to the letters filed in other ICSID Proceedings, the Tribunal notes that these letters are not publicly available. In the light of its Procedural Order No. 3 (par. 114-116) and the risks of out of context use of correspondence between the parties and/or an arbitral tribunal, the Tribunal is reluctant to admit documents of this kind. In addition, the Tribunal notes that in their letter of 14 May 2010 Claimants have confirmed the participation and status of participation of the three concerned Claimants in these other ICSID Proceedings. The Tribunal thus deems that this information is sufficient for Respondent to make the argument it was pursuing.

The Tribunal herewith rejects Respondent request with regard to the two letters submitted in other ICSID proceedings and neither Party may use these letters for its Post-Hearing Brief.

- (5) With regard to the documents Claimants seek to introduce as "responsive documents" to Respondent's requests for submission of documents, these documents are all publicly accessible and Respondent has expressly stated having no objection to their admission. Therefore and given that the Tribunal has admitted the documents introduced by Respondent, it sees no reason to refuse their admission.

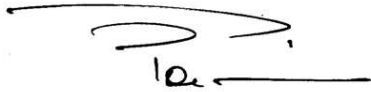
The Tribunal herewith admits the "responsive documents" listed in par. 3 above into the record and for use by either Party in its Post-Hearing Brief.

- (6) With regard to the 7 April 2010 SDNY decision, Respondent has no objection to its admission. The Tribunal therefore sees no reason to refuse it.

The Tribunal herewith admits the 7 April 2010 SDNY decision into the record and for use by either Party in its Post-Hearing Brief.

Both Parties are invited to submit the documents admitted herein by **25 May 2010**.

On behalf of the Tribunal,

A handwritten signature in black ink, consisting of a stylized 'P' followed by a horizontal line and a small flourish.

Pierre Tercier,
Chairman