

ITALBA CORPORATION

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Director
Dirección de Asuntos Económicos Internacionales
Ministerio de Relaciones Exteriores
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August 5, 2015

Dear Director:

Italba Corporation ("Italba") is a corporation incorporated under the laws of the State of Florida, United States of America ("United States") that has made substantial investments in the Oriental Republic of Uruguay ("Uruguay"). Italba hereby formally notifies you of the existence of a dispute with Uruguay under the Treaty between the United States of America and the Oriental Republic of Uruguay Concerning the Encouragement and Reciprocal Protection of Investment, which entered into force on November 1, 2006 (the "Treaty").

Italba's investments in Uruguay include, but are not limited to, its shareholdings in: (i) Trigosul S.A. ("Trigosul"), (ii) Jorter, S.A. ("Jorter"), and (iii) Villaclara S.A. ("Villaclara"). All three corporations are incorporated in Uruguay. Trigosul, in particular, was awarded certain rights with respect to the provision for commercial purposes of wireless communication services in Uruguay (the "Investment") in accordance with the Law, Constitution, and other applicable laws of Uruguay (the "Legal Framework").

Notwithstanding Trigosul's compliance with the Legal Framework, the Regulatory Unit for Communications Services or *Unidad Reguladora de los Servicios en Comunicaciones* (the "URSEC"), without explanation or legal justification, failed to issue Trigosul a license in accordance with the Legal Framework. Furthermore, the URSEC ultimately launched administrative proceedings against Trigosul, which resulted in the adoption of Resolution No. 001 (the "URSEC Resolution"), dated January 20, 2011. The URSEC Resolution terminated certain rights of Trigosul with respect to the Investment. As a result of the URSEC Resolution,

the Ministry of Industry, Energy and Mining of Uruguay (the “Ministry”) adopted another resolution on July 8, 2011 (the “Ministry’s Resolution”), which revoked the remainder of Trigosl’s rights with respect to the Investment. The URSEC Resolution and the Ministry Resolution fundamentally damaged all of Italba’s investments in Uruguay.

In response to the actions of the URSEC and the Ministry, Trigosl sought the annulment of these resolutions by means of administrative appeals duly filed on October 28, 2011, against the URSEC Resolution (File No. 728/2011), and on March 23, 2012, against the Ministry’s Resolution (File No. 148/2012). Notwithstanding the pendency of this annulment proceeding, the URSEC transferred the rights previously held by Trigosl to a third party competitor. Such conduct was improper and further caused fundamental damage to Italba’s investments in Uruguay.

Then, on October 23, 2014, the Court for Contentious Administrative Proceedings (the “Court”) declared both resolutions null and void (*see Trigosl S.A. v. Executive Power – URSEC*, Annulment Action, File No. 728/2011; Resolution No. 579/2014, dated Oct. 23, 2014). In so holding, the Court ordered that the URSEC return to Trigosl its right to the use of frequencies 3425-3450 MHz and 3525-3550 MHz. The Court also ordered the Ministry to return to Trigosl the remainder of its rights. Finally, the Court held that the URSEC acted with malicious intent towards Trigosl and that its previous failure to issue Trigosl a proper license was the result of unjustified discrimination.

Notwithstanding these holdings, neither the URSEC nor the Ministry have abided by the Court’s orders or even responded to Trigosl’s formal notice of the annulment of the URSEC Resolution and the Ministry’s Resolution. Furthermore, to date, the Ministry and the URSEC have not paid to Trigosl the damages ordered by the Court and have failed to either restore Trigosl to the position it held prior to the adoption of the resolutions or provide Italba with fair, prompt, and adequate compensation for the investments it has by its conduct expropriated.

These measures, for which Uruguay is responsible under international law, constitute a breach of Uruguay’s international obligations under the Treaty. In particular, the measures are in breach of Article Six of the Treaty, prohibiting expropriation done without a public purpose, due process, and prompt, adequate, and effective compensation. The measures are also in breach of Articles Three and Five of the Treaty, which prohibit unfair and inequitable treatment, including denial of justice, with respect to investments made in Uruguay by investors from the United States. The measures are also in breach of the requirement in Article Five that Uruguay provide investors from the United States with full protection and security. The measures are also in breach of Article Four of the Treaty, which requires Uruguay to accord United States investors treatment “no less favorable than that it accords, in like circumstances, to investments in its territory of investors of any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.” Finally, the measures were discriminatory and, therefore, in breach Article Five of the Treaty. The measures have caused and will continue to cause significant economic loss to Italba and all of its investments in Uruguay in amounts no less than US \$100 million.

As a result of Uruguay’s measures, a dispute with respect to Italba’s investment in Uruguay, through Trigosl, has arisen in accordance with Article Twenty Four of the Treaty, which is

hereby notified to Uruguay. Italba emphasizes its desire to reach an amicable resolution of this dispute within the ninety-day period established therein. However, if no resolution has been reached within ninety days of this notification, Italba reserves its right to submit the dispute notified herein to international arbitration. In this regard, Italba hereby expresses its unconditional consent, and thus its acceptance of the consent expressed by Uruguay in Article Twenty Five of the Treaty, to submit the dispute to arbitration either before the International Centre for Settlement of Investment Disputes or in an *ad hoc* arbitration under the UNCITRAL Arbitration Rules.

Italba representatives will, of course, make themselves available to meet with senior representatives of the Government of Uruguay, with a view to seeking an amicable settlement of this dispute. Italba reiterates its firm commitment to engage in constructive dialogue to resolve this matter.

Finally, nothing in this letter should be considered as a limitation of any kind on issues of fact or law, which Italba or its affiliates may invoke before an international arbitral tribunal. Italba fully reserves its rights and remedies in respect of this dispute under Uruguayan law and international law.

Yours sincerely,



Italba