

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

In the interpretation proceeding between

VICTOR PEY CASADO AND FOUNDATION “PRESIDENTE ALLENDE”

Claimants

AND

THE REPUBLIC OF CHILE

Respondent

ICSID Case No. ARB/98/2

**ORDER OF THE SECRETARY-GENERAL TAKING NOTE OF THE
DISCONTINUANCE OF THE PROCEEDING**

Date: May 12, 2017

REPRESENTATION OF THE PARTIES

Representing the Claimants:

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In cooperation with :

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Representing the Respondent:

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1. On October 7 and 10, 2016, the International Centre for Settlement of Investment Disputes (“ICSID” or the “Centre”) received a request from Victor Pey Casado and Foundation “Presidente Allende” for the interpretation of the Award rendered in this case on May 8, 2008 (“the Request”).
2. The Request was registered on October 21, 2016, pursuant to Article 50 of the ICSID Convention. Upon registration, the Parties were informed pursuant to ICSID Arbitration Rule 51(3) that the Tribunal that rendered the Award could not be reconstituted in accordance with ICSID Arbitration Rule 51(2). The Parties were therefore invited to constitute a new Tribunal composed of the same number of arbitrators, appointed according to the same method as the one used to constitute the original Tribunal. The Centre reminded the Parties that the original Tribunal had been constituted according to the formula provided for in Article 37(2)(b) of the ICSID Convention.
3. On December 1, 2016, H el ene Ruiz Fabri, a national of France, accepted her appointment as arbitrator by the Claimants.
4. On January 23, 2017, Stephen Drymer, a national of Canada, accepted his appointment as arbitrator by the Respondent.
5. On April 21, 2017, prior to the constitution of a Tribunal, the ICSID Secretariat received a letter from the Claimants requesting the discontinuance of the proceeding pursuant to ICSID Arbitration Rule 44.
6. ICSID Arbitration Rule 44 provides:

If a party requests the discontinuance of the proceeding, the Tribunal, or the Secretary-General if the Tribunal has not yet been constituted, shall in an order fix a time limit within which the other party may state whether it opposes the discontinuance. If no objection is made in writing within the time limit, the other party shall be deemed to have acquiesced in the discontinuance and the Tribunal, or if appropriate the Secretary-General, shall in an order take note of the discontinuance of the proceeding. If objection is made, the proceeding shall continue.

7. On April 24, 2017, the Secretary-General sent a letter to the Parties, in accordance with ICSID Arbitration Rule 44, asking the Respondent to state whether it opposed the discontinuance of the proceeding by May 1, 2017.
8. On May 1, the ICSID Secretariat received a letter from the Respondent stating that although it had no objections to the discontinuance of the proceeding, it requested that ICSID order the Claimants to pay all of the Respondent's expenses and costs, including legal fees, incurred in connection with the interpretation proceeding.
9. On May 3, 2017, the Secretary-General informed the Parties that the Centre does not have the authority under the ICSID Convention to rule on allocation of costs or to issue the type of order requested by the Respondent. The Secretary-General invited the Respondent to clarify its position with respect to any condition to its consent to the Claimants' request for discontinuance, or to indicate whether it objects to the Request.
10. On May 9, 2017, the Respondent confirmed its unconditional consent to the discontinuance of the interpretation proceeding.

ORDER

11. THEREFORE, considering the above and in accordance with ICSID Arbitration Rule 44, I hereby take note of the discontinuance of the proceeding.



Meg Kinnear
Secretary-General