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**Subject:** RE: ICC 20910 – Communication from Claimants to the ICC Secretariat

Dear Mr. Argentato and Ms. Pintón,

Claimants provide their observations in response to Respondent’s comments of 1 November 2020.

Claimants disagree with Respondent’s position that a supplemental submission is not permitted under the ICC Rules. Nothing in the ICC Rules forbids a party to complement the facts and circumstances on which a challenge is based if it obtains additional information giving rise to additional facts and circumstances following the submission of such a challenge. Quite to the contrary, it would be unfair not to allow Claimants to complement their challenge with such facts and circumstances, when they had to submit it only out of an abundance of caution in order to avoid any dispute about admissibility, while they were expecting additional disclosures from the members of the Tribunal.

In addition, Claimants note that Respondent in fact does not oppose Claimants’ request to make a supplemental submission, but purports to force Claimants to do so within an unreasonable deadline. There is no basis, however, for requiring Claimants to make this submission by 3 November 2020.

Article 14(2) of the ICC Rules provides that a party has “30 days from the date when the party making the challenge was informed of the facts and circumstances on which the challenge is based”. Claimants received additional disclosures from the members of the Tribunal on 29 and 30 October 2020, and have received yet further disclosures from two of the arbitrators today. Claimants thus have 30 days from the dates of these disclosures to complement their challenge to the extent they give rise to facts and circumstances on which Claimants’ challenge is based.

Yours faithfully,  
Counsel for Claimants

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