



Republic of Croatia
Ministry of Foreign and European Affairs
First Deputy Prime Minister and
Minister

Mr Dirk Pulkowski
Registrar of the Arbitral Tribunal established
between the Republic of Croatia and the Republic of Slovenia
PCA, The Hague

Zagreb, 30 May 2015

Dear Mr Pulkowski

Arbitration between the Republic of Croatia and the Republic of Slovenia

I write to communicate to you a copy of Note Verbale 1482/2015 sent by the Ministry of Foreign and European Affairs of the Republic of Croatia to its counterpart in Slovenia, on 24 April 2015, and invite you to communicate this letter and a copy of the Note Verbale to the members of the Arbitral Tribunal. The Note Verbale concerns a recent statement made by the Minister of Foreign Affairs of Slovenia in which he indicates that he has unofficial information concerning the likely outcome of an aspect of the abovementioned proceedings. This is stated to be separate from the views of his counsel.

As recorded and reported, the statement by the Minister in Slovenian (an electronic recording of his words is attached) is as follows:

“Po informacijah, ki jih imam jaz, ki so sicer zelo neformalne, tudi na podlagi nekih občutkov, ki jih ima naša odvetniška skupina, ki je sestavljena iz najbolj uglednih svetovnih pravnikov za pomorsko pravo, nekako imamo neki optimizem, da bo arbitražno sodišče določilo ta stik z odprtim morjem.”

The English translation of the statement is:

“According to the information that I have, which is very much unofficial, as well as on the basis of a feeling that our legal team has, being composed of the world's best renowned scholars of the law of the sea, we are somehow optimistic in a way that the Arbitral Tribunal will determine that contact with the high seas.”

You will appreciate that this intervention by the Minister of Foreign Affairs gives rise to serious concerns on the part of Croatia.

As you will see in the Note Verbale, these concerns are compounded by an earlier statement of the Slovenian Minister of Foreign Affairs, made on 7 January 2015 on the TV channel *SLO 3*. On that occasion, the Minister was reported to have stated that he

“had talks in The Hague last year ... And I made it very clear to the Arbitral Tribunal that if they do not fulfil this task - we in Slovenia shall consider that the Arbitral Tribunal has not executed its mandate. Because the contact with the high seas has not been determined ...” (a transcript of that statement is attached).

Croatia has reviewed the official transcript of the relevant meeting and notes that no reference is made to this matter.

Croatia is deeply troubled by language of both statements, which could be construed as implying that one of the Parties to the proceedings may have an informal channel of communication with the Tribunal that may compromise the arbitration procedure and its outcome.

Moreover, taken together, these statements could also be seen as being intended to seek to bring pressure on the Tribunal. This has been a tendency also in the earlier phase of the proceedings when, on 4 February 2013, the Slovenian Parliament adopted the Conclusion according to which: *“The Republic of Slovenia declares that the task of the Arbitration Tribunal is to determine territorial contact of the territorial sea of the Republic of Slovenia with the High Seas (contact of Slovenia to the High Seas)”*, and also stated that Slovenia will consider any decision of the Arbitration Tribunal that would not ensure this as *“a decision ultra vires (in contravention of the mandate of the Arbitration Tribunal)”*.

In this regard, I recall that the Secretary General of the PCA, whom I met in September 2014 when he was a guest at the Bled Forum in Slovenia, offered assurances that both Parties would be treated equally in these proceedings. Such an approach is of the utmost importance to maintain the integrity of these arbitral proceedings, and to enhance the prospects for the peaceful settlement of other boundary disputes in southeast Europe.

I would be grateful for your confirmation that the Parties continue to be bound to “refrain from any actions or statements which might intensify the dispute or jeopardize the work of the Arbitral Tribunal”, as required by Article 10(1) of the Arbitration Agreement.

Croatia expresses its appreciation to the Tribunal for its urgent attention.

Yours sincerely,



Vesna Pusić