



Professor Dr. Kaj Hobér
3 Verulam Buildings
Gray's Inn
London, WC1R 5NT
United Kingdom

BY E-MAIL:
KAJ.HOBER@OUTLOOK.COM

Mr. Andrew Cannon
Mr. Lode Van Den Hende
Mr. Iain Maxwell
Ms. Hannah Ambrose
Ms. Louise Barber
Ms. Juliana Penz-Evren
Mr. Jerome Temme
Ms. Helin Laufer
Herbert Smith Freehills LLP
Exchange House
Primrose Street
London, EC2A 2EG
United Kingdom

BY E-MAIL:
ANDREW.CANNON@HSF.COM
LODE.VANDENHENDE@HSF.COM
IAIN.MAXWELL@HSF.COM
HANNAH.AMBROSE@HSF.COM
LOUISE.BARBER@HSF.COM
JULIANA.PENZ@HSF.COM
JEROME.TEMME@HSF.COM
HELIN.LAUFER@HSF.COM


Legal Service
European Commission
Rue de la Loi 200
1049 Brussels
Belgium

BY E-MAIL:



AG 306133
TELEPHONE: +31 70 302 4140
E-MAIL: MDOE@PCA-CPA.ORG

27 March 2020

RE: PCA CASE NO. 2020-07: NORD STREAM 2 AG (SWITZERLAND) V. THE EUROPEAN UNION

Dear Mesdames,
Dear Sirs,

I write on the instructions of the Presiding Arbitrator and on behalf of the Tribunal in the above-referenced matter.

The Tribunal acknowledges receipt of the Parties' respective letters dated 20 March 2020 with their comments on the Draft Terms of Appointment and Draft Procedural Order No. 1.

As regards the Draft Terms of Appointment, after having duly considered the Parties' comments on the issues of disagreement between them, the Tribunal has decided that the UNCITRAL Arbitration Rules 1976 are applicable to these proceedings pursuant to Article 26(4)(b) of the ECT. Accordingly, please find enclosed the final version of the Terms of Appointment. The Parties are requested to each execute

a copy of the Terms of Appointment and return it to the PCA by no later than **Wednesday, 8 April 2020**.

Please also find enclosed a revised Draft Procedural Order No. 1, in respect of which the Tribunal has decided as follows:

- The Tribunal is not minded to fix a seat of arbitration within the EU. However, the Tribunal notes that the Respondent has not yet indicated its position with respect to potential seats of arbitration outside the EU, including the option of Singapore which has been proposed by the Claimant. The Tribunal therefore invites the Parties to consult each other with a view to determining whether agreement can be found in respect of a seat of arbitration outside the EU.
- The Tribunal is not minded to adopt the changes proposed at paragraphs 4.8, 5.2, 5.6, and 6.4 in the absence of agreement by the Parties. The original text of these provisions has therefore been maintained.
- The Tribunal accepts that it is bound by Articles 25(4) and 32(5) of the UNCITRAL Arbitration Rules with respect to the confidentiality of hearings and awards. The Tribunal otherwise proposes to adopt the UNCITRAL Transparency Rules as proposed by the Respondent.
- The Tribunal notes the Parties' respective proposals for bifurcation and trifurcation. In the light of the Respondent's indication that it intends to raise objections to the jurisdiction of the Tribunal and/or the admissibility of the claims, the Tribunal invites the Parties to consult each other with a view to determining whether agreement can be found in respect of the dates to be adopted for a timetable up to and including a Tribunal decision on bifurcation or trifurcation of the proceedings.

The Parties are invited to advise the Tribunal by **Wednesday, 8 April 2020** of any agreements reached between them or their positions on the matters on which they disagree in respect of the foregoing.

Finally, the Tribunal notes that, in view of the present circumstances, including significant worldwide travel restrictions, it is no longer realistic to foresee an in-person procedural meeting in the near future. The date of 9 June 2020 reserved for an in-person procedural meeting is therefore vacated. The Tribunal will revert to the Parties in due course in respect of a potential procedural meeting by telephone or video-conference.

Please do not hesitate to contact me at the details set out above, or my colleague Mr. Neil Nucup (tel.: +31 70 302 4128, e-mail: nnucup@pca-cpa.org), should you have any queries concerning this letter.

Yours sincerely,



Martin Doe
Senior Legal Counsel

Encl.: Terms of Appointment
Revised Draft Procedural Order No. 1

cc: Justice David Unterhalter SC
(*by e-mail*: david@unterhalter.law)

Prof. Philippe Sands
(*by e-mail*: philippesands@matrixlaw.co.uk)

Prof. Ricardo Ramírez Hernández
(*by e-mail*: ricardoramirezh@icloud.com)