



Ms. Evgeniya Goriatcheva
Registrar
Permanent Court of Arbitration
Peace Palace
Carnegieplein 2
2517 KJ Den Haag

Postbus 20061
2500 EB Den Haag
Nederland
<http://www.government.nl>

Contactpersoon
Tom Diederer

T +31 70 348 4303
tom.diederer@minbuza.nl

Onze referentie
MinBuZa-2017.130869

2014-02

NO. AG 196840

Received:

17 February 2017

Datum 17 February 2017

Betreft Arctic Sunrise Arbitration – Comments on expert report of Mr. Potter

Dear Ms. Goriatcheva,

Further to the invitation in the Arbitral Tribunal's letter of 24 January 2017, the Kingdom of the Netherlands hereby provides its comments on the expert report (the Report) of Mr. Iain Potter (the Expert).

In his Report, the Expert concluded that, due to lack of support for transactions with a total value of EUR 122,460.45, he is unable to reach an opinion on these transactions (paragraph 6.6 of the Report) and these transactions are designated as 'uncertain'. The Netherlands wishes to make three comments in relation to four of these transactions that represent a total value of EUR 94,563.92.

1. The first comment relates to two transactions that concern VAT claimed without support (paragraph 3.16-3.18 and 4.4-4.5). The Expert indicated that he is unable to conclude whether or not the claimed VAT with respect to these two transactions represented a genuine unrecoverable cost to Greenpeace. He observed that "it is possible that Greenpeace is unable to recover the reverse-charged VAT because of the charitable nature of its activities". The Netherlands wishes to confirm that Greenpeace is indeed registered in the Netherlands as a charitable organisation and is not entitled to reimbursement of VAT or reverse charges. Greenpeace pays VAT as an end user, because it does not deliver services or products that require VAT. Therefore, VAT paid by Greenpeace cannot be recovered and represents a 'genuine unrecoverable cost'.
2. Secondly, the Netherlands wishes to draw the Tribunal's attention to paragraphs 3.21-3.22 that relate to amounts claimed for transactions in respect of hotel accommodation supported with template invoices. Greenpeace has informed the Netherlands that due to the circumstances at the time no individual invoices could be collected. The hotel rates and

airport transfer costs were collected in advance and approved by the Deputy Programme Director of Greenpeace. The e-mail containing this authorisation is included in the materials (Annex N-51, ARCTIC 30, Annex 1 back-up documentation WEA1, Stichting Greenpeace, 5003715 - AUTHORIZATION SARAH BURTON PAGE 4 OF 5.pdf) and attached to this letter for the convenience of the Tribunal.

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3. Thirdly, the Netherlands wishes to comment on paragraph 4.6 that relates to a transaction in respect of which the Expert could not confirm from an invoice whether the amount claimed is supported. The Netherlands would draw the attention of the Tribunal to two invoices from Vitali Watersport in relation to the purchase of the outboard engines that are included in the materials. The first contains the details of the entire purchase and the second refers to a deposit paid. These are files 610627.pdf and 610446.pdf of Annex N-51, ARCTIC 30, Annex 2 backup documentation WEA2 (attached to this letter for the convenience of the Tribunal).

The Netherlands would note that, if the status of the above items changes from 'uncertain' to 'supported', this has implications for the percentages applied to the transactions under the categories 'Transactions involving Unreconciled Expense Claims' (paragraph 3.32-3.34) and 'Transactions of EUR 1,000 or Less' (paragraphs 3.36 and 4.8).

In view of the additional instructions of the Arbitral Tribunal to the Expert in its letter of 2 December 2016, the Netherlands defers to the Arbitral Tribunal's opinion whether an opportunity should be provided to the Netherlands to provide additional support for any other transactions for which additional information or disclosures are required.

The Netherlands would further like to note that the combined reports of Mr. Larsen and Mr. Potter do not cover all heads of damage as presented by the Netherlands in its claim for reparation (Claim Statement, Annex N-48 of 28 October 2015). The Report of Mr. Larsen has been limited to a review of the claim concerning the Rigid Hull Inflatable Boats. The Report of Mr. Potter has been limited to a review of the part of the claim included in the two WEA-reports. The reports, therefore, have not reviewed the claim concerning the following items in the Claim Statement (Annex N-48 of 28 October 2015):

With respect to the *Arctic Sunrise*, the costs of:

- The standby crew (item 2.3);
- The relevant share (item 2.4);
- Fuel oil and victual (item 3.5);
- Fuel (*annex B, calculation of fuel costs*) (item 4.1);
- Crew (*annex 4, second table*) (item 4.2);
- Loss of hire (item 5.1).

With respect to the persons on board the *Arctic Sunrise*:

- Salary costs related to the emergency response team (*annex 6*) (item 9.1);
- Salary costs having become due during detention (*lost funds*) (item 9.2.4).

It is our understanding that the Tribunal will address the heads of damage not covered by the combined reports of Mr. Larsen and Mr. Potter.

Yours sincerely,



René Lefeber,
Co-Agent for the Kingdom of the Netherlands

Datum

17 February 2017

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MinBuZa-2017.130869

cc: Judge Thomas A. Mensah (by e-mail: tamensah@yahoo.co.uk)
Mr. Henry Burmester (by e-mail: henryburmester49@gmail.com)
Professor Alfred Soons (by e-mail: a.h.a.soons@uu.nl)
Professor Janusz Symonides (by e-mail: januszsymonides@poczta.onet.pl)
Dr. Alberto Székely (by e-mail: aszekely@compuserve.com.mx)

H.E. Mr. Alexander Shulgin
Ambassador of the Russian Federation to the Netherlands
(by courier and e-mail: ambrusnl@euronet.nl)

Invoice

5003715

| |
|---|
| Seller FLAIT Group Ltd. |
| Sellers bank: CB "North-West I Alliance Bank" OJSC |
| VAT № ИНН 5190912749 |

Invoice Number : 3472

Invoice date: 05/11/13

Invoice to : Greenpeace International
Ottho Heldringstraat 5
1066 AZ Amsterdam
The Netherlands
VAT number: NL0066.23.207.B.01

Invoice for : accommodation for Greenpeace group in Murmansk Park Inn Radisson hotel Murmansk.

| Description | Currency | Amount |
|---|----------|---------|
| Isabelle Philippe 30 oct DBL 99.75 Euro | EURO | 99.75 |
| Mukhortov 5-8 nov SGL room 74 Euro | EURO | 222.00 |
| Andrei Suchkov 3-10 nov 7x74 Euro | EURO | 518.00 |
| Nasonova 6-8 nov SGL standart 2x74 Euro | EURO | 148.00 |
| Natalia Dzemenchuk (Bajorek) 5-8 nov SGL | | 222.00 |
| Emma Maronchuk 30 oct-01 nov 3x74 Euro | EURO | 222.00 |
| Lebedeva 05 nov- 08 NOV 3 nights SGL room | EURO | 222.00 |
| Correlalestobar Sergio с 31.10 до 04.11 | EURO | 957.50 |
| Almeida Agnaldo с 31.10 до 10.11 | | |
| DBL room 10x95.75 | | |
| Severina Natalya 31.10 to 15.11 | EURO | 1466.25 |
| Ross Tanya from 31.10 DBL 15x97.75 | | |
| Zhuravleva Natalya 31.10 | EURO | 488.75 |
| Sakirko Elena from 31.10 to 4.11 from 4.11 Zhuravleva Ilona | | |
| DBL 5x97.75 | | |
| Ivanova Anastassia с 31.10 - 15.11 | EURO | 1466.25 |
| Bayram Deniz 31.11 - 15.11 | | |
| DBL 15x97.75 | | |

| | | |
|---|------|---------|
| Misiunaite leva 2.11-15.11 Favorskaja Marya 4.11-15.11 DBL room 13x97.75 EURO | EURO | 1270.75 |
| Dmitry Artamonov from 31.11 to 15.11 Rashid Alimov from 31.11 to 04.11 DBL room 15x97.75 | EURO | 1466.25 |
| Dmitry Sharomov 31.11 to 15.11 Ilya Sharapov 31.11 to 15.11 DBL room 15x97.75 | EURO | 1466.25 |
| Vasily Pavlov from 31.11 to 04.11 Beneslavsky Anton 31.11 to 11.11 DBL room 11x97.75 | EURO | 1075.25 |
| Bugakovas Andrius c 31.11 do 11.11 Varitimos Leon c 31.11 do 14.11 DBL room 14x97.75 Euro | EURO | 1368.50 |
| Ozay Ozer c 2.11 do 16.11 Peter Kucka c 31.10 do 3.11 DBL 14x97.75 | EURO | 1368.50 |
| Tenorio Cavalcante 05.11 - 17.11 Almeida Agnaldo 31.10 - 10.11 DBL room 17x 97.75 | EURO | 1661.75 |
| Alexander Zudkin Anna komarova DBL room 05.11-10.11 5x97.75 | EURO | 488.75 |
| Al Baker 7.11-12.11 Jan Baranek 7.11-12.11 DBL room 5x97.75 | EURO | 488.75 |
| Individual transfers Murmansk airport-Murmansk hotel 19/10 25 Euro (Isabelle, Sergio) 21/10 35 Euro (Vilen Lupachik) (late arrival 1.55) 20/ 10 25 Euro (Elena Sakirko) 22/10 25 Euro (Zhiganova Alina) 23/10 25 Euro (Zhiganova Alina) (kl.4.25) 29/10 35 Euro Bartenev (late arrive) 29/10 35 Euro Deniz Bayram (late arrive) 1.11 25 Euro Nasonova, Mukhortov 1.11 35 Euro (Emma Maronchuk) Isabelle Philippe 30/10 35 Euro (late departure) | EURO | 300.00 |

| | | |
|---|-------------|-----------------|
| Reduce of total amount due to double payment of invoice number 3455 | Euro | - 4737 |
| Total | EURO | 12249.00 |
| | | |

Payment instructions:

Please transfer the invoiced amount to:

FLAIT GROUP LTD, ul. Voroskogo 5/23-500, 183038 Murmansk, Russia

Account 40702978400011003698

CB "North-West 1 Alliance Bank" OJSC, St. Petersburg

SWIFT: NWALRU2P

Correspondent Bank account 55.072.649

with Raiffeisen Zentralbank, Vienna, Austria

SWIFT: RZBAATWW

Please, make sure to take care of all possible expenses caused by this transaction.

Payment conditions: 5 days after invoicing

Re: MMK invoices - one new invoice to pay for

Subject: Re: MMK invoices - one new invoice to pay for

From: Sarah Burton <sarah.burton@greenpeace.org>

Date: 06-Nov-13 14:52

To: Accounts Payable Greenpeace International <apayable@greenpeace.org>, Accounts Payable Greenpeace International <apayable.int@greenpeace.org>

CC: Deng Atem <deng.atem@greenpeace.org>, David Russell <david.russell@greenpeace.org>

Dear Finance,

Please process as priority.

INVOICE AUTHORIZATION FORM

Ref No. 3472

Pay to: FLAIT GROUP LTD

Amount: EUR 12249.00

Auth Sign: Sarah Burton

Authorization: Authorized

Account Code(s): 5130

Budget Code(s): 849325

Description : Accommodation Murmansk

Thank you

On Wed, Nov 6, 2013 at 11:24 AM, Deng Atem <deng.atem@greenpeace.org> wrote:
Hi Sarah,

Could you please authorise the attached invoice for EUR 12,249 for Murmansk accommodation costs.

Cheers,

----- Original Message -----

Subject:MMK invoices - one new invoice to pay for

Date:Wed, 6 Nov 2013 13:42:36 +0400

From:Anastasia Eremeeva <anastasia.eremeeva@greenpeace.org>

To: Deng Atem <deng.atem@greenpeace.org>, "Cc: Fabien Rondal" <fabien.rondal@greenpeace.org>, Katarzyna Stokowska <kstokows@greenpeace.org>

Hi Deng, Fabien, Katarzyna!
Could you please pay new invoice # 3472 (attached).
Thanks a lot!!!

Anastasia.

--

Anastasia Eremeeva
GP Russia
ED Assistant

--

--

Sarah Burton

Deputy Programme Director

Give me a lever long enough and a place to stand, and I can move the world.
—Archimedes, 287-212

(W) [+31 \(0\)20 7182212](tel:+31207182212)

(M) [+31 \(0\)625 031008](tel:+3120625031008)


(E) sarah.burton@greenpeace.org

skype: sarah.burton150

Greenpeace International
Ottho Heldringstraat 5
1066 AZ Amsterdam
The Netherlands
[+31 \(0\) 20 718 2000](tel:+31207182000)

Greenpeace is an independent global campaigning organization that acts to change attitudes and behavior, to protect and conserve the environment and to promote

* 2014 budget. !! (1575)

| Stichting Phoenix - PAYMENT REQUEST FORM | | | | |
|--|--|---|--------------|--|
| PAY TO | <u>Vital Watersport</u> | SGC Reference Number | 610627 | |
| AMOUNT | <u>€10000</u> | PAID (for IFU purposes only) | | |
| INVOICE DATE | <u>29.12.2014</u> | | | |
| NAME OF AUTH. SIGNATORY | <u>Manuel Pinto</u> | | | |
| SIGNATURE |  | | | |
| DATE | <u>06.01.2014</u> | | | |
| OTHER INSTRUCTIONS | <u>New Boat spares</u> | | | |
| Tick if this item is included in the authorised capital budget | | PO: <input style="width: 50px;" type="text"/> | | |
| Information for Finance Department (to be completed by budget holder) | | | | |
| Curr | Amount | Budget Code | Account Code | Description |
| € | 10000 | 849332 | | spares purchase for New Boat Boats Siluget 2nd part invoice |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Aan: **Master & Owners of Arctic Sunrise**
Stichting Phoenix
Postbus 11673
1001 GR Amsterdam

FACTUUR

| | |
|---------------|------------|
| Factuurdatum | 29-12-2014 |
| Leverdatum | 29-12-2014 |
| Klantnummer | 1575 |
| Factuurnummer | 2014470 |

| Aantal | Artikelcode | Omschrijving | Stukprijs | Totaal ex. BTW |
|--------|-------------|-----------------------------------|------------|----------------|
| 1 | 920 | Sillinger 470 UM FRTSW03746L414 | 10.000,00 | 10.000,00 |
| 1 | 920 | Sillinger 470 UM FRTSW03747L414 | 10.000,00 | 10.000,00 |
| | | 3 parts Rigned Keel Color Grey | | |
| 2 | 763900 | TANK AY, 6 GALLON | 126,69 | |
| 2 | 174176 | FUEL FILTER KIT | 61,62 | |
| 2 | 502905 | FUEL FILTER | 14,98 | |
| 1 | 110 | Voorschot(deelfactuur) 2014420 | -10.000,00 | -10.000,00 |

order 021:4266/fw/3714-4266



Levering onder BTW 0 tarief

Te betalen Excl. BTW € 10.000,00

Gaarne betaling binnen 8 dagen na factuurdatum op onderstaande rekening ovv factuurnummer: 2014470

In alle gevallen waarin wij optreden als aanbieder of leverancier zijn op onze offertes, op opdrachten aan ons en op met ons gesloten overeenkomsten de METAALUNIEVOORWAARDEN van toepassing zoals deze luiden volgens de op de achterzijde afgedrukte tekst.
 De voorwaarden worden u, indien gewenst, tevens kosteloos toegezonden.

WWW.VITALIWATERSPORT.NL

BEZOEKADRES:
 MOSSELAAN 112
 1934 RD EGMOND AAN DEN HOEF
 NEDERLAND

POSTADRES:
 POSTBUS 140
 1930 AC EGMOND AAN ZEE
 NEDERLAND

TEL/FAX: 072 785 23 72
 MOBIEL: 06 42 80 55 00
 INFO@VITALIWATERSPORT.NL
 FACEBOOK.COM/VITALIWATERSPORT

IBAN NL73 RABO 0141 0605 06
 BIC RABONL2U
 BTW NR: NL 1847.74.913.B.01
 K.V.K NR: 37 13 77 37

610446



Aan: **Master & Owners of Arctic Sunrise**
Stichting Phoenix
Postbus 11673
1001 GR Amsterdam

FACTUUR

| | |
|---------------|------------|
| Factuurdatum | 26-09-2014 |
| Leverdatum | 26-09-2014 |
| Klantnummer | 1575 |
| Factuurnummer | 2014420 |

| Aantal | Artikelcode | Omschrijving | Stukprijs | Totaal ex. BTW |
|--------|-------------|--|-----------|----------------|
| 1 | 110 | Voorschot(deelfactuur) order 021:4266/fw/3714-4266 | 10.000,00 | 10.000,00 |



Levering onder BTW 0 tarief

Te betalen Excl. BTW

€ 10.000,00

Gaarne betaling binnen 8 dagen na factuurdatum op onderstaande rekening ovv factuurnummer: 2014420

checked

In alle gevallen waarin wij optreden als aanbieder of leverancier zijn op onze offertes, op opdrachten aan ons en op met ons gesloten overeenkomsten de METAALUNIEVOORWAARDEN van toepassing zoals deze luiden volgens de op de achterzijde afgedrukte tekst.
 De voorwaarden worden u, indien gewenst, tevens kosteloos toegezonden.

WWW.VITALIWATERSPORT.NL

| | | | |
|--|---|---|--|
| BEDRIJFSADRES MOSELAAN 112 1934 RD EGMOND AAN ZEE NEDERLAND | POSTADRES POSTBUS 140 1939 AC EGMOND AAN ZEE NEDERLAND | TEL/FAX 072 785 23 72 MOBIEL 06 42 80 55 00 INFO@VITALIWATERSPORT.NL FACEBOOK.COM/VITALIWATERSPORT | IBAN NL73 RABO 0141 0505 06 BIC RABONL21 BTW NR. NL184774913 B 01 K.V.K. NR. 32137732 |
|--|---|---|--|

From: [Evgeniya Goriatcheva](#)
To: [Marion Joullie Carles](#)
Cc: [Iuliia Samsonova](#); [Domenico Cucinotta](#)
Subject: FW: Arctic Sunrise Arbitration - comments on expert report of Mr. Potter
Date: 17 February 2017 18:00:05
Attachments: [2017-02-17 Letter NL - Arbitral Tribunal \(Comments on expert report Potter\).pdf](#)
[5003715 - AUTHORIZATION SARAH BURTON PAGE 4 OF 5.pdf](#)
[610446.pdf](#)
[610627 \(1\).pdf](#)

From: DJZ-IR [<mailto:djz-ir@minbuza.nl>]

Sent: 17 February 2017 4:41 PM

To: Evgeniya Goriatcheva <egoriatcheva@pca-cpa.org>

Cc: tamensah@yahoo.co.uk; henryburmester49@gmail.com; a.h.a.soons@uu.nl;
januszymonides@poczta.onet.pl; aszekely@compuserve.com.mx; ambrusnl@euronet.nl; Lefeber, Rene <rene.lefeber@minbuza.nl>; Lijnzaad, Liesbeth <liesbeth.lijnzaad@minbuza.nl>

Subject: Arctic Sunrise Arbitration - comments on expert report of Mr. Potter

Dear Ms. Goriatcheva,

Please find attached a letter from the Co-Agent of the Kingdom of the Netherlands in the Arctic Sunrise Arbitration. Could you please confirm receipt of this mail as well as the attached letter and its three annexes?

With kind regards,

Yolande Spaans
Ministry of Foreign Affairs
Department of Legal Affairs
Tel: +31 70 3486724
djz-ir@minbuza.nl

Help save paper! Do you really need to print this email?

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