

LALIVE

Rue de la Mairie 35
P.O. Box 6569
1211 Geneva 6 - Switzerland
T +4158 105 2000
F +4158 105 2060
www.lalive.ch

Bruno Poulain
Roxane Regaud
Ernst & Young Societe d'Avocats
Hangar 16, Entrée 2
Quai de Bacalan
33070 Bordeaux Cedex

Dr Veijo Heiskanen
Partner
vheiskanen@lalive.ch

Domitille Baizeau
Partner
dbaizeau@lalive.ch

By fax and by registered post

Geneva, 30 April 2018

Re: *Christian Doutremepuich & Antoine Doutremepuich v Republic of Mauritius*

Dear Sir/Madame,

We refer to your letter of 30 March 2018 and the accompanying "Notice of Arbitration" regarding the above matter (the "Notice").

We represent the Republic of Mauritius in this matter and would be grateful if you could send all future correspondence in this matter to:

Dr Veijo Heiskanen
Domitille Baizeau
Laura Halonen
Eléonore Caroit
Augustin Barrier

LALIVE
Rue de la Mairie 35
P.O. Box 6569
1211 Geneva 6 – Switzerland

T +4158 105 2000
F +4158 105 2060

vheiskanen@lalive.ch
dbaizeau@lalive.ch
lhalonen@lalive.ch
ecaroit@lalive.ch
abarrier@lalive.ch

with a copy to:
The Hon. Maneesh Gobin,
Attorney General
Mr Dheerendra Kumar Dabee,
Solicitor-General
Mr Rajeshsharma Ramloll,
Deputy Solicitor-General

4th Floor, R. Seeneevassen Building
Port Louis
Mauritius
T +230 203 4742
F +230 211 8024
sgo@govmu.org
ddabee@govmu.org
rramloll@govmu.org

We would be grateful if you could also provide your e-mail addresses to facilitate future communications.

We have reviewed the Notice and note that the claims of Messrs Doutremepuich are purportedly brought under the Mauritius-France Bilateral Investment Treaty (the “**BIT**”). The position of the Republic of Mauritius is that there is no jurisdictional basis in the BIT, or elsewhere, for the claims brought by Messrs Doutremepuich. The Republic of Mauritius also denies that the claims have any factual or legal merit.

On a without prejudice basis, we address below certain procedural and other matters set out in your letter and in the Notice.

First, we note the invitation in your letter for the Republic of Mauritius to provide its Response to the Notice within 30 days. This invitation appears to be based on

the assumption that the arbitration would proceed under the 2010 UNCITRAL Rules. However, since Messrs Doutremepuich purport to rely on the 2007 Finland-Mauritius BIT, the 2010 UNCITRAL Rules do not apply in this case (see Article 1(2) of the 2010 UNCITRAL Rules). Consequently, if Messrs Doutremepuich wish to pursue their claims under the UNCITRAL Rules, they must proceed under 1976 UNCITRAL Rules, which do not require the Respondent to provide any Response to a Notice of Arbitration.

Second, the Republic of Mauritius does not agree with your proposal for the purported arbitration to be bilingual. The Republic of Mauritius is of the view that the arbitration should be conducted in English, the language in which all official documentation in Mauritius is prepared and issued. However, the Republic of Mauritius would be willing to accept that documents drafted in French need not be translated into English for the purposes of the arbitration but can be filed in their original language.

Third, the Republic of Mauritius does not agree either with your proposal for Paris as the place of arbitration, given the French nationality of Messrs Doutremepuich. The Republic of Mauritius proposes Geneva, Switzerland as a neutral and convenient seat of arbitration with an arbitration-friendly legislation and judiciary.

Fourth, although Messrs Doutremepuich have no “right” to seek the application of the Mauritius Convention on Transparency and the UNCITRAL Rules on Transparency in Treaty-based Investor State Arbitration, since the BIT does not provide for “a right for investors to resort to arbitration”, the Republic of Mauritius agrees to the application of these Rules to the present dispute.

Fifth and last, please note that the Republic of Mauritius is in the process of appointing an arbitrator for the proceedings and we expect to be able to revert to you in this regard within a week or two and suggest that the Parties then seek to agree also on the Presiding Arbitrator, in consultation with the Co-Arbitrators.

Yours sincerely,



Dr Veijo Heiskanen
Domitille Baizeau