

**Arbitration Tribunal Established Pursuant
To Article XV of the Agreement Signed At
The Hague On 20 January 1930**

Dr. Horst Reineccius, Claimant v. Bank for International Settlements, Respondent (Claim no. 1)
First Eagle SoGen Funds, Inc., Claimant v. Bank for International Settlements, Respondent (Claim no. 2)
Pierre Mathieu and la Société Hippique de la Châtre, Claimants v. Bank for International Settlements, Respondent (Claim
no. 3)

**Procedural Order No. 3 (Terms of Submission)
5 March 2002**

Whereas **Dr. Horst Reineccius** (hereafter Dr. Reineccius) on 7 March 2001 submitted a Notice of Arbitration to the Tribunal Concerning the Bank for International Settlements (hereafter the Tribunal) claiming that the compensation for his shares in the **Bank for International Settlements** (hereafter the Bank) that had been recalled by the Extraordinary General Meeting on 8 January 2001 was less than the value to which he was entitled (Claim no. 1); and

Whereas **First Eagle SoGen Funds Inc.** (hereafter First Eagle) on 31 August 2001 submitted a Notice of Arbitration to the Tribunal claiming that the compensation for their shares in the Bank that had been recalled by the Extraordinary General Meeting on 8 January 2001 was less than the value to which they were entitled (Claim no. 2); and

Whereas **M. Pierre Mathieu** on 10 October 2001 submitted a Notice of Arbitration to the Tribunal claiming that the Bank had acted unlawfully in forcibly repurchasing his shares and a share held by the Société Hippique de La Châtre (hereafter collectively “M. Mathieu”) (Claim no. 3); and

Whereas claimant First Eagle has submitted a Statement of Claim in Claim no. 2 on 12 November 2001 and, on the same date, an application for production of documents; and

Whereas the Bank on 14 January 2002 has submitted a Statement of Defense in Claims no 1 through 3 as well as a response to the application for production of documents and an application for production of documents by claimant First Eagle in Claim no. 2; and

Whereas the Tribunal met with the above Parties and their counsel on 26 February 2002 at The Hague for the purposes of establishing the Terms of Submission in accord with Article 12 of the Rules for Arbitration Between the Bank and Private Parties (effective 23 March 2001); and

Whereas the Parties have stated that they have no jurisdictional objections:

- A. The Tribunal notes that the following matters remain at issue between all or a number of the Parties:
1. the lawfulness of the compulsory recall of the shares, including the procedures by which it was accomplished and the possible scope of the consequences of a finding of unlawfulness for all those who were private shareholders as of 8 January 2001;
 2. the identification of the applicable standards for the valuation of the compulsorily recalled shares;
 3. the application of the standards in 2 above to the shares which were compulsorily recalled.
- B. The Tribunal finds that it is most economical to treat the first two issues in a single phase and to defer the third issue to a second, final phase, if it should prove necessary.
- C. Although only M. Mathieu and the Bank have raised issue 1 above, both contend that a finding of unlawfulness would affect the recall program and all those who were shareholders as of 8 January 2001. A finding of unlawfulness of the compulsory recall of shares could therefore affect all the Claimants in these cases. Accordingly,
1. the Tribunal requests M. Mathieu and the Bank to address all matters they deem relevant to their contentions with respect to the lawfulness of the recall program including its consequences for those who were shareholders as of 8 January 2001;
 2. the Tribunal requests Dr. Reineccius and First Eagle to address all matters they deem relevant to the scope of the possible consequences of a finding of unlawfulness of the recall program for those who were shareholders as of 8 January 2001;
 3. all the Parties are requested to address all matters they deem relevant to the nature and extent of the rights of the private shareholders and the applicable standards for the valuation of the compulsorily recalled shares.
- D. The schedule of submissions shall be as follows:
1. M. Mathieu shall submit a consolidated Statement of Claim no later than 12 March 2002.
 2. The three Claimants shall submit Memorials no later than 20 April 2002.
 3. The Respondent shall submit Counter-Memorials no later than 15 July 2002.
 4. Hearings in this phase of the arbitration will take place in The Peace Palace during the week of 26 August 2002, on days to be specified.
 5. The Secretary of the Tribunal will promptly consult with the Parties with respect to their views as to any adjustment of the times specified in D.2, 3 and 4; should the Parties agree to an adjustment, the Tribunal will consider a modification of the schedule of submissions.

- E. 1. With respect to this phase of the case, the Tribunal grants the following requests of First Eagle for discovery from the Bank:
- a. Documents relating to the Bank's offer to purchase shares held by private shareholders in or about 1975, including offering memoranda and other communications with shareholders, and valuations or other methods or analyses considered by the Bank in determining the offering price for such shares.
 - b. All subscription agreements relating to the Bank's issuance of new shares since 1969.
 - c. All Documents relating to the Bank's determination of subscription prices for shares issued since 1969, including any valuations.
 - d. All Documents provided to subscribers of shares since 1969, to the extent that they are offering memoranda, prospectuses, solicitation letters and financial statements.
 - e. All Documents since 1990 relating to the Bank's valuation of the Bank's shares.
 - f. All Documents since 1990 concerning any transfer of its shares by the Bank including the price therefor.
 - g. All versions of the Bank's Statutes, as amended, since and including the original version adopted in or about 1930.
2. The above documents shall be provided to First Eagle on or before 15 March 2002.
3. The Tribunal notes that Dr. Reineccius, M. Mathieu and the Bank have stated that they have no discovery requests in this phase. If any of these Parties have discovery requests of their own, they are invited promptly to apply to the Tribunal with those requests.
4. If a second, final phase of this case should prove necessary, the Tribunal will consider whether and to what extent additional discovery may be appropriate.

Prof. Michael Reisman, President and on behalf of the Tribunal