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February 16, 2017

By Email

Anneliese Fleckenstein
Legal Counsel
International Centre for Settlement
of Investment Disputes
1818 H Street, N.W.
Washington, D.C. 20433

Re: *Spence International Investments, LLC, et al. v. the Republic of Costa Rica*
(ICSID Case No. UNCT/13/2)

Dear Ms. Fleckenstein:

Respondent is troubled by the Tribunal's decision, communicated in your letter of February 13, 2017, in which the Tribunal rejected Respondent's application that the Tribunal order Claimants to withdraw their request to the U.S. District Court for the District of Columbia for a stay of these arbitral proceedings. We respectfully maintain that, in doing so, the Tribunal did not address the right question.

The Tribunal's only stated reason for rejecting Respondent's application was that "[s]uch rights as the Claimants may have, or claim, before the U.S. District Court for the District of Columbia are for the District Court to address, not for this Tribunal." However, Respondent never asked the Tribunal to address what rights, if any, Claimants may have before the U.S. District Court. Instead, Respondent asked the Tribunal to order Claimants not to exercise one such potential right, to the extent it exists, because doing so would be highly prejudicial to Respondent and would jeopardize the integrity of the arbitration proceeding given, *inter alia*, the potential years of delay.

The Tribunal has the power to order Claimants to withdraw their request before the U.S. District Court. In fact, multiple tribunals have gone even further, and have ordered that parties suspend or withdraw from domestic proceedings in their entirety. In those cases, tribunals have not ruled on whatever rights the parties to the arbitration may have had in the domestic proceedings; rather, they have exercised their authority to preserve the integrity and fairness of the arbitration. This was precisely Respondent's application—to order Claimants to withdraw

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their request to the U.S. District Court for a stay of these arbitral proceedings, in order to preserve the integrity of these proceedings.

Respondent reserves all of its rights regarding the above.

Respectfully submitted,



Stanimir A. Alexandrov
Jennifer Haworth McCandless
Counsel for Respondent