

PCA Case No. 2015-28

IN THE MATTER OF AN ARBITRATION

- before -

AN ARBITRAL TRIBUNAL CONSTITUTED UNDER ANNEX VII  
OF THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

THE ITALIAN REPUBLIC

- v. -

THE REPUBLIC OF INDIA

- concerning -

*THE "ENRICA LEXIE" INCIDENT*

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PROCEDURAL ORDER NO. 7  
(Amendments to the Rules of Procedure)

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ARBITRAL TRIBUNAL:

H.E. Judge Vladimir Golitsyn (President)  
H.E. Judge Jin-Hyun Paik  
H.E. Judge Patrick Robinson  
Professor Francesco Francioni  
Dr. Pemmaraju Sreenivasa Rao

REGISTRY:

Permanent Court of Arbitration

**WHEREAS** on 19 January 2016, the Arbitral Tribunal, with the concurrence of the Parties, adopted the Rules of Procedure for the present arbitration (hereinafter the “**Rules of Procedure**”); and whereas Article 23 of the Rules of Procedure addresses the issue of transparency of the proceedings;

**WHEREAS** on 30 July 2018, the Arbitral Tribunal issued Procedural Order No. 5, in which, with respect to the issue of transparency, the Arbitral Tribunal invited the Parties to consult with each other in respect, in particular, of the confidentiality arrangements that may be necessary at the hearing;

**WHEREAS** on 14 September 2018, the Arbitral Tribunal issued Procedural Order No. 6, addressing certain procedural issues relating to the hearing, including confidentiality arrangements, in light of briefs received from the Parties; and whereas by letter dated 18 December 2018, the Arbitral Tribunal invited the Parties to further consult with each other on the issue of confidential information in their pleadings;

**WHEREAS** by letter dated 30 April 2019, Italy proposed a modification of Article 23, paragraphs 2 and 3, of the Rules of Procedure as agreed by the Parties in the course of their consultations; and whereas India confirmed on the same day its concurrence with the modification;

**THE ARBITRAL TRIBUNAL ISSUES THE FOLLOWING PROCEDURAL ORDER:**

1. Paragraphs 2 and 3 of Article 23 of the Rules of Procedure are amended to read as follows:
  2. The documents, pleadings, and submissions of the Parties shall be confidential and shall not otherwise be made publicly available save by order of the Arbitral Tribunal on application by a Party, having afforded the Parties an opportunity to be heard.
  3. The hearings shall be confidential save in respect of any portion of a hearing that the Parties, after consultation with the Arbitral Tribunal, agree should be open to the public via live webcasting or closed-circuit television broadcast, subject to such arrangements to be prescribed by the Arbitral Tribunal, after consultation with the Parties, for the orderly conduct of the said portion of the hearing and the protection of information, including the oral submissions of a Party, designated as confidential. A corrected hearing transcript of any portion of a hearing that is open to the public shall be published.
2. Without prejudice to Article 23, paragraph 2, of the Rules of Procedure (as amended by this Order), and pursuant to Article 23, paragraph 3, of the Rules of Procedure (as amended), the Agent of the Italian Republic and the Agent of the Republic of India shall each make a brief opening statement at the start of the hearing on 8 July 2019, which shall not contain or make reference to

any information that either Party has or has sought to designate as confidential. These statements will be webcast live on the Internet.

3. The hearing transcript of the Agents' opening statements shall be made publicly available on the PCA Case Repository after the Parties have had an opportunity to make any necessary corrections.
4. The present Order is without prejudice to any future orders by the Arbitral Tribunal.

For the Arbitral Tribunal:

A handwritten signature in black ink, appearing to read "V. Golitsyn". The signature is written in a cursive, flowing style.

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H.E. Judge Vladimir Golitsyn  
President

16 May 2019