



Panel dissolves Chinese-Costa Rican refinery project

01 November 2019

Cosmo Sanderson



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An ICC tribunal has reportedly granted a Costa Rican state entity's request to dissolve its joint venture with a Chinese counterpart in a politically sensitive dispute over a cancelled US\$1.5 billion project to upgrade an oil refinery – while related criminal proceedings continue.

Costa Rican state-owned oil company Refinadora Costarricense de Petroleo, or Recope, announced yesterday that the tribunal had ordered the termination of a joint venture agreement between it and China National Petroleum Corporation subsidiary, CNPC International (CNPCI).

The tribunal also ordered the dissolution and liquidation of the parties' joint venture company Soresco, Recope said.

The London-seated tribunal hearing the case was chaired by Italian-British arbitrator [Luca Radicati di Brozolo](#) of ArbLit in Milan. CNPCI appointed Dutch arbitrator [Albert Jan van den Berg](#) of Hanotiau & van den Berg in Brussels, while Recope chose Chile's [Andrés Jana](#) of Bofill Mir & Alvarez Jana in Santiago.

CNPCI used Allen & Overy in Hong Kong and Dentons in Costa Rica while Recope was represented by the Paris office of Latham & Watkins.

Allen & Overy and Latham & Watkins declined to comment on the award. Dentons was also contacted.

Recope said the tribunal dismissed both parties' claims for compensation and ordered them to equally split US\$880,000 in arbitration costs. The parties were notified of the award on 28 October.

GAR understands that the tribunal issued a unanimous decision finding that both parties had committed breaches of the joint venture agreement.

Soresco is a 50-50 joint venture formed by the two state entities under a 2008 agreement for the purpose of modernising and expanding the Moín refinery near the Costa Rican port of Limón. That agreement was reached a year after China and Costa Rica had established diplomatic relations for the first time, after the Central American state broke off relations with Taiwan.

The upgrade would have increased the capacity of the refinery to 60,000 barrels of oil a day and enabled it to produce cleaner fuels. The China Development Bank had agreed to provide a US\$900 million loan for the project, with the remainder to be funded by the joint venture partners. The partners put forward an initial investment of US\$100 million, of which US\$74 million has reportedly been spent to date.

In 2013, the Comptroller General's Office, the body in charge of Costa Rica's public finances, suspended the project after it found that Recope could not rely on environmental impact and feasibility studies the state entity had ordered, as one of the studies had been prepared by a CNPCI affiliate.

The project has been suspended ever since. In 2016, Recope announced it was terminating the joint venture, saying it had made efforts to overcome legal obstacles but that CNPCI had refused to accept its solutions.

CNPCI [filed its claim](#) the following year, seeking a declaration ordering Soresco to complete the project. Alternatively, it asked for the repayment of its original investment of US\$50 million and around US\$10 million in additional expenses.

Recope sought its own declaration from the tribunal, confirming the termination of the joint venture and the dissolution of Soresco. It also asked for around US\$35 million in compensation, representing half of what Soresco had spent on the project and additional costs spent on the salaries of staff at Soresco, with eight Chinese employees earning more than US\$50,000 a month.

Recope said in its announcement that hearings were held in March this year.

In 2017, Recope asked a Costa Rican court for an injunction preventing Soresco from spending any further funds, which was rejected. Recope discontinued an appeal process last year.

Meanwhile, the Costa Rican public prosecutor's office has opened criminal proceedings in relation to the project, which it began investigating in 2012. Last year, it arrested six Soresco employees on charges of misappropriating public funds. Those proceedings are ongoing.

Interpol, at the request of Costa Rican authorities, has reportedly issued an international alert to try and locate three Chinese citizens in relation to the matter.

The arbitration was politically sensitive due to the importance Costa Rica has placed on its relationship with China. The opening of formal relations between the two countries just over a decade ago has resulted in several Chinese-funded infrastructure projects in Costa Rica, including a national stadium and police academy.

Recope president Alejandro Muñoz Villalobos said the arbitral award is of "special importance" to the state entity and Costa Rica, as ending a trade dispute would indirectly benefit bilateral relations with China.

CNPC International v Refinadora Costarricense de Petroleo (ICC case)

Tribunal

- [Luca Radicati di Brozolo](#) (Italy/UK) (chair)
- [Albert Jan van den Berg](#) (Netherlands) (appointed by CNPCI)
- **Andrés Jana** (Chile)

Counsel to CNPC International

- Allen & Overy

Partners **Matthew Gearing QC** and **Matthew Hodgson** and associate **Cammy Man** in Hong Kong

- Dentons

Counsel to Recope

- Latham & Watkins

Partners **Fernando Mantilla-Serrano** and **John Adam** and associates **Esperanza Barron Baratech** and **Diego Romero** in Paris

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