

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Scholz Holding GmbH**

**v.**

**Kingdom of Morocco**

**(ICSID Case No. ARB/19/2)**

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**PROCEDURAL ORDER NO. 3**  
**Hearing Organization and Calendar for Phase Two**

***Members of the Tribunal***

Mr. Alexis Mourre, President of the Tribunal  
Professor Zachary Douglas QC, Arbitrator  
Professor Nassib G. Ziadé, Arbitrator

***Secretary of the Tribunal***

Mr. Francisco Abriani

***Assistant to the Tribunal***

Ms. Marina Matousekova

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6 March 2020

On 26 February 2020, the Tribunal held a pre-hearing organizational meeting with the parties. Further to this meeting, the Tribunal has adopted the following order in relation to the organization of the hearing scheduled to take place in Paris on 21 April 2020.

## **1. Hearing Schedule and Allocation of Time**

- 1.1. Total time reserved for the hearing: One day (21 April) as scheduled, starting at 9 a.m. and finishing at 5 p.m.
- 1.2. Allocation of time between parties: As directed at section 1.5 below.
- 1.3. Allocation of time to the Tribunal: As directed at sections 1.4 and 1.5 below.
- 1.4. Manner of time keeping: The time used by the parties during the hearing will be kept by the Tribunal Secretary using a chess-clock method. Time for Tribunal's questions will be accounted as time used by the party presenting at the time of the questions.

### 1.5. Sequence of hearing and daily schedule:

Daily schedule (start and end times, number and length of breaks): The hearing will start at 9 a.m. and will finish at 5 p.m. It will include two 30-minute coffee breaks (one in the morning and one in the afternoon), a 1-hour lunch break and 1 hour for questions from the Tribunal at the end of the hearing. Thus, the total amount of time available to the parties is 5 hours (2.5 hours each). The schedule may be adapted if necessary in order to allow for a 1-hour preparation of closing statements by the Respondent, as agreed at the pre-hearing call.

The sequence of the hearing will be as follows:

- Opening statement for the Kingdom of Morocco
- Opening statement for Scholz
- Examination of expert for the Kingdom of Morocco (if any)
- Examination of expert for Scholz (if any)
- Closing statement for the Kingdom of Morocco, including Tribunal questions
- Closing statement for Scholz, including Tribunal questions
- Q&A by the Tribunal (if necessary)

## **2. Expert Examination**

- 2.1. Each party shall submit a final list of the expert witnesses it wishes to cross-examine by 18 March 2020 – one day after the submission of the Statement of Defense to the Jurisdictional Objection.
- 2.2. Scope and manner of expert examination: If applicable, examination shall be limited to expert qualifications and content of the expert report.
- 2.3. Length and format for direct-, cross- and redirect examination of experts: If applicable, experts will be allowed to make a 10-minute presentation before the Tribunal, followed by cross-examination and potentially re-direct. The total duration of cross-examination of each expert shall be limited to 1.5 hours. The parties agree not to have re-cross-examination.
- 2.4. Expert sequestration: No need for sequestration of experts.

- 2.5. Modalities for testimony by videoconference: The parties do not anticipate the use of videoconference. Should it become necessary, the parties are required to inform the Tribunal and opposing counsel at least 1 week before the start of the hearing.

### **3. Hearing Materials**

- 3.1. Rules on the use and distribution of visual aids, including demonstrative exhibits and PowerPoint presentations, during hearing: Use and distribution of visual aids, demonstrative exhibits and PowerPoint presentations are allowed as long as they do not contain new evidence.
- 3.2. Rules on the submission of new evidence/exhibits into the record during hearing: No new evidence allowed unless authorised in justified circumstances by the Tribunal following a reasoned request by the requesting party.
- 3.3. Hearing bundles: Separate hearing bundles. In order to avoid duplication, each party would propose to produce a complete set of its own pleadings and exhibits at the hearing. The parties are advised that while Professor Ziadé will be grateful to receive a hard copy of the hearing bundle, Mr. Mourre, Professor Douglas, Ms. Matousekova and Mr. Francisco Abriani do not require hard copies.
- 3.4. USB drive with consolidated case file and hyperlinked index of all pleadings, witness statements, expert reports, exhibits and authorities; format; timing: The parties are invited to coordinate and provide the Tribunal, at the hearing, with a consolidated USB key (one for each arbitrator, one for the Assistant to the Tribunal and one for the ICSID Secretariat) including the entirety of the record (with documents accessible in sub-Files Claimant/Respondent, submissions, exhibits, legal exhibits, witness statements (if any), expert reports, etc., and organised by file numbers), with documents in searchable format.

### **4. Post-Hearing Briefs and Statements of Costs/Submissions on Costs**

- 4.1. As directed at section 23.2 of Procedural Order No. 1: To be decided at the hearing.

### **5. Main Logistics Items**

- 5.1. Venue: World Bank Conference Center, Paris, France – Room D
- 5.2. Set-up details: to be communicated by the Centre in due course
- 5.3. Transcription: to be communicated by the Centre in due course
- 5.4. Interpretation: Simultaneous English/French interpretation to be arranged. Request recommendation to ICSID for a simultaneous translator.
- 5.5. Technical requirements for use of visual aids, if any: Access to a laptop with: (1) internet connection, (2) USB ports and (3) which is connected to screens.

### **6. Other Matters**

- 6.1. The timetable for the second part of the arbitration, in case the Tribunal upholds jurisdiction, is as follows:

Step	Date
Tribunal's decision on bifurcated objection	29 May 2020 (if necessary, with reasons to follow)
Counter-Memorial	7 September 2020 (3 months and one week after the Tribunal's decision)
Document Requests	21 September 2020 (2 weeks later)
Production of non-contested documents and/or objections	5 October 2020 (2 weeks later)
Replies to objections	19 October 2020 (2 weeks later)
Decision of the Tribunal on document production	2 November 2020 (2 weeks later)
Document production	16 November 2020 (2 weeks later)
Reply	30 November 2020
Rejoinder	3 March 2021
List of witnesses and experts	10 March 2021
Pre-hearing call	22 March 2021
Hearing	5-9 July 2021

On behalf of the Tribunal

[signed]

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Mr. Alexis Moure  
President of the Tribunal  
Date: 6 March 2020