

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER THE AGREEMENT ON
RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE CARIBBEAN
COMMUNITY AND THE DOMINICAN REPUBLIC AND THE UNCITRAL ARBITRATION RULES
(1976)**

MICHAEL ANTHONY LEE-CHIN

v.

THE DOMINICAN REPUBLIC

(ICSID Case. No. UNCT/18/3)

PROCEDURAL ORDER No. 4

Members of the Tribunal

Prof. Diego P. Fernández Arroyo, Presiding Arbitrator

Prof. Christian Leathley, Arbitrator

Prof. Marcelo Kohen, Arbitrator

Secretary of the Tribunal

Ms. Marisa Planells-Valero

July 29, 2020

I. PROCEDURAL HISTORY

1. On October 23, 2018, after due consideration of the Parties' proposals, the Tribunal issued Procedural Order No. 1 incorporating, as Annex A, the procedural calendar for this arbitration proceeding.
2. On October 25, 2018, the Respondent requested an order from the Tribunal modifying the original procedural calendar. On November 5, 2020, after granting both Parties full opportunity to comment, the Tribunal issued a Revised Annex A to Procedural Order No. 1 modifying the time periods for the different scenarios envisaged in this arbitration proceeding (Option I - non-bifurcated proceeding) and (Option II - bifurcated proceeding).
3. On March 6, 2019, the Tribunal granted Respondent's Request for Bifurcation of February 4, 2019. In doing so, the Tribunal instructed the Parties to follow Option II of Revised Annex A. The last sentence of Option II provides that "If the Tribunal decides that it has jurisdiction, the Tribunal will fix the calendar for the merits in consultation with the Parties on the basis of Option I."
4. In strict observance of the foregoing, on July 20, 2020, following the issuance of the Partial Award on Jurisdiction of July 15, 2020 upholding jurisdiction, the Tribunal invited the Parties to confer and attempt to agree on the procedural calendar for the next stage of this arbitration in accordance with Option I of Revised Annex A.
5. On July 23, 2020, the Parties informed the Tribunal that they had been unable to reach an agreement and submitted their proposed procedural calendars for the Tribunal's consideration.

II. THE PARTIES' POSITIONS

A. Claimant's Position

6. Claimant submits that its proposed procedural calendar is based off Option I of Revised Annex A to Procedural Order No. 1 and that Respondent has offered "no valid reasons to further delay this process and to not follow Option I."
7. According to Claimant, Respondent's proposed procedural calendar would extend "excessively and unnecessarily, multiple procedural deadlines, such as the deadlines to file Respondent's Counter-Memorial and Respondent's Rejoinder, as well as the hearing dates." Claimant notes that Respondent has been cognizant of the existence of Revised Annex A of Procedural Order No. 1 since at least 8 November 2018, and never filed any objections to Revised Annex A. Claimant adds that Respondent has been in possession of Claimant's Statement of Claim since January 18, 2019, and that its proposal of 120 days for Respondent to file its Counter-Memorial contains the same time limit previously provided by the Tribunal in Revised Annex A of Procedural Order No. 1, is fair, and provides more than enough time for Respondent to prepare its pleading.

B. Respondent's Position

8. Respondent notes that it never proposed a procedural calendar for a non-bifurcated scenario, and that Option I (120 days for the filing of the Counter-Memorial) reflects exclusively Claimant's

position regarding the merits phase. Respondent further notes that its only intervention in connection with Option I was to request that the Tribunal grant a period of “not less than 5 months” for the submission of its Counter-Memorial.¹ [Tribunal’s translation].

9. Respondent requests a 7-month period (210 days) for the submission of its Counter-Memorial on the basis of the following: (i) Respondent intends to submit “at least three additional admissibility and jurisdictional objections” which would require additional preparation/drafting time, (ii) the change in the Respondent’s administration following the July 5, 2020 presidential elections and which is scheduled to take place on August 16, 2020, hindering Respondent’s preparation of its defense during the transition period, (iii) Respondent’s inability to retain experts during the transition period, (iv) the impact of the coronavirus crisis, and (v) the voluminous materials on damages submitted by the Claimant together with its Memorial on the Merits. [Tribunal’s translation].

III. THE TRIBUNAL’S DECISION

10. After due consideration of the Parties’ arguments and taking into account the uncertainties created by the ongoing COVID-19 crisis and the change of administration in the Dominican Republic, the Tribunal has decided to adopt the procedural calendar attached as **Annex A** to this Order.
11. In view of the Respondent’s announcement of July 23, 2020 that it intends to submit “at least three additional admissibility and jurisdictional objections,” the Tribunal has decided to grant Claimant an opportunity to submit a Rejoinder on Respondent’s additional objections, on the basis of Article 15(1) of the UNCITRAL Arbitration Rules.
12. Following the issuance of this procedural order, and in consultation with the Parties, the Tribunal will determine the dates for the Hearing on the additional objections, merits, and quantum.

For and on behalf of the Tribunal,

[signed]

Prof. Diego P. Fernández Arroyo
President of the Tribunal
Date: July 29, 2020

¹ Respondent’s letter of October 25, 2018, p. 4.

ANNEX A - PROCEDURAL CALENDAR

(FOLLOWING ISSUANCE OF PARTIAL AWARD ON JURISDICTION)

Procedural Step	Lapse	Due Date
Respondent's Counter-Memorial on the Merits and Memorial on additional jurisdictional/admissibility objections	150 days (from the date of issuance of the Tribunal's Partial Award on Jurisdiction)	December 14, 2020 ²
Parties' Requests for Production of Documents	+ 20 days	January 4, 2021 ³
Parties' Responses and Objections to Requests for Production of Documents	+ 15 days	January 19, 2021
Parties' Reply on Objections to Requests for Production of Documents	+ 15 days	February 3, 2021
Parties' Voluntary Production of Requested Documents	45 days (from the date of the Parties' Requests for Production of Documents)	February 18, 2021
Tribunal's Decision on Parties' Objections to Requests for Production of Documents	+ 15 days (from the date of the Parties' Replies on Objections to Requests for Production of Documents)	February 18, 2021
Parties' Production of Documents ordered by the Tribunal	+ 21 days	March 11, 2021

² See UNCITRAL Arbitration Rules (1976), Article 2 (2).

³ See UNCITRAL Arbitration Rules (1976), Article 2 (2).

Michael Anthony Lee-Chin v. Dominican Republic
 (UNCT/18/3)
 Procedural Order No. 4

Claimant's Reply on the Merits and Counter-Memorial on additional jurisdictional/admissibility objections	+ 60 days	May 10, 2021
Respondent's Rejoinder on the Merits and Reply on additional jurisdictional/admissibility objections	+ 60 days	July 9, 2021
Claimant's Rejoinder on additional jurisdictional/admissibility objections	+ 45 days	August 23, 2021
Pre-hearing organizational telephone conference between the Parties and the Tribunal	TBD	TBD
Hearing	No sooner than 45 days after the last written submission	TBD
Parties' Post-Hearing Briefs (if applicable) and Statements of Costs	TBD	TBD