

**The Carlyle Group L.P., Carlyle Investment Management L.L.C., Carlyle
Commodity Management L.L.C., and others**

v.

Kingdom of Morocco

(ICSID Case No. ARB/18/29)

**PROCEDURAL ORDER NO. 6
Organization of the Hearing on Jurisdiction**

Members of the Tribunal

Prof. Juan Fernández-Armesto, President of the Tribunal
Dr. Horacio A. Grigera Naón
Mr. Samuel Wordsworth, QC

Secretary of the Tribunal

Ms. Ella Rosenberg

Assistant to the Tribunal

Ms. Francisca Seara Cardoso

Date: January 6, 2021

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I. ORGANIZATION OF THE HEARING

A. DATE AND FORMAT OF THE HEARING

1. The Hearing on Jurisdiction (the “Hearing”) will take place virtually through Zoom from January 13-15, 2021 to be hosted by a FTI. The details to join the Zoom session will be shared by the ICSID Secretariat in advance of the Hearing.

B. ORDER OF PROCEEDINGS AND SCHEDULE

2. In order to accommodate the multiple time zones of all Hearing Participants, the Hearing will start at 8:30 am (New York time) save for the last day when the Hearing will start at 9 am (New York time). There will be breaks during the Hearing days as indicated in the tentative schedule at **Annex A** on page 15.
3. The Tribunal reserves discretion to adjust the Hearing schedule as needed to accomplish the prescribed agenda and to accommodate any technical disruptions.

C. TIME ALLOCATION

4. The Hearing will proceed on the principle that the Parties should have equal time to present their case within the time allocation agreed upon for each phase of the Hearing (Opening Statement, examination of witnesses and Closing Statement) and as set out roughly in the Hearing agenda at **Annex A**.
5. Time used by the Parties in oral argument or in examination of witnesses and experts shall be attributable to the Party making such argument or conducting such examination.
6. Accordingly, considering the total number of Hearing days (3 days), and the projected sitting times give a total of 19 hours Hearing time, less 1 hour and 40 minutes for breaks, resulting in 17 hours 20 minutes usable Hearing time.
7. Tribunal Questions. The Tribunal reserves approximately 2 hours and 35 minutes for questions and housekeeping. The time reserved for the Tribunal has been added to the Hearing agenda at **Annex A** to this Procedural Order, in addition to the housekeeping time specifically identified. Time taken by the Tribunal for its own questions during the Parties’ presentations and cross-examinations and the answers to those questions shall not be counted against the Parties’ time, subject to reasonable adjustment at the discretion of the Tribunal in the event of unusually protracted answers.

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8. Time used for housekeeping or to resolve technical difficulties shall be counted against the Tribunal's time, if needed.
9. Time shall be kept using the chess-clock method.
10. Each Party shall have the following allocated time for each stage of the Hearing:
 - (a) *Opening Statement*. Each Party shall be allowed a maximum of 2 hours for its Opening Statement.
 - (b) *Witnesses/Expert cross-examinations*:
 - *Direct Examination of Fact Witnesses*. The direct examination of a fact witness envisioned by Section 22.6 of Procedural Order No. 1 shall not exceed 10-15 minutes.
 - *Direct Presentations by Experts*. The presentation by an expert envisioned in Section 22.6 of Procedural Order No. 1 shall not exceed 20 minutes.
 - (c) *Closing Statements*. Each Party shall be allowed a maximum of 1 hour 30 minutes in addition to 20 minutes for each Party's rebuttal.
11. The Secretary of the Tribunal shall keep a chess clock account of time and advise the Parties of the total daily time used at the end of each Hearing day.

D. DOCUMENTS FOR USE AT THE HEARING

1. Electronic Hearing Bundle

12. There shall be a single Electronic Hearing Bundle (PC and Mac compatible), to be prepared jointly by the Parties.
13. The Parties shall provide, no later than December 30, 2020, the Electronic Hearing Bundle which shall contain all pleadings, witness statements, expert reports, exhibits, and legal authorities, with a consolidated hyperlinked index. It shall not contain any document not previously filed. It shall be organized as follows:

Electronic Hearing Bundle:

01. Pre-Hearing Memorials

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- A. Claimants
- B. Respondent

02. Witness Statements

- A. Claimants
- B. Respondent

03. Expert Reports

- A. Claimants
- B. Respondent

04. Fact Exhibits

- A. Claimants
- B. Respondent

05. Legal Authorities

- A. Claimants
- B. Respondent

14. The Electronic Hearing Bundle index shall identify with **RED** material that has been designated as “protected information”, in accordance with Article 10.20(2) of the US-Morocco FTA and Section 25.4 of Procedural Order No. 1.
15. The Parties shall distribute the Electronic Hearing Bundle in a USB to be sent by courier no later than January 4, 2021 directly to Mr. Wordsworth and Professor Naon. The USB shall contain the hyperlinked version of the index.

2. Electronic Hearing Bundle for Cross-Examination

16. During cross-examination, the Parties will refer to exhibits and legal authorities that already form part of the record of the case.
17. The witness and experts are entitled to be shown a full copy of any exhibit or authority on which they will be questioned (*i.e.*, they are not to be restricted to reviewing excerpts of documents shown on a screen).

3. Demonstrative Exhibits

18. The Parties may use PowerPoint or other slide presentations for their oral statements, subject to the below rule on demonstrative exhibits.
19. Demonstrative exhibits shall be used in accordance with Section 21.7 of Procedural Order No. 1 (reproduced below), with certain adjustments indicated in paragraph 23 *infra*:

Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence. Each party shall number its demonstrative exhibits consecutively and indicate on each demonstrative exhibit the number of the document(s) from

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which it is derived. The party submitting such exhibits shall provide them in electronic and hard copy to the other party, the Tribunal Members, the Tribunal Secretary, the Assistant to the Tribunal, the court reporter(s) and interpreter(s) at least 24 hours prior to the start of the hearing day on which they are proposed to be used. For the avoidance of doubt, the parties have agreed that textual material used to support oral arguments (whether in the form of PowerPoint slides or otherwise) and which contain no graphs or tables processing data or new evidence, but only text in support of the oral submissions, will not constitute a “demonstrative” in the sense of this clause and can be produced at the hearing.

20. To account for the virtual nature of the Hearing, Section 21.7 of Procedural Order No. 1 is amended such that: (i) the hard copy submission of demonstratives is not required; and (ii) an electronic copy of each demonstrative shall be distributed by the Party intending to use it *via* an electronic mail sent to the entire case email distribution for each Party, the Secretary of the Tribunal, the Members of the Tribunal, the Assistant to the Tribunal, to the court reporter and to the interpreters as necessary no later than 24 (twenty-four) hours *prior* to its use, in order to facilitate offline access to the demonstrative by the Hearing participants. This will enable participants to print the demonstrative if desired. It is advisable to transmit the demonstrative exhibits to the members of the Tribunal and the ICSID Secretary with more than 1-hour notice.
21. In addition, promptly after the conclusion of the Hearing day in which the corresponding demonstrative exhibit is used, the Parties shall upload such demonstrative to the case folder in the BOX filesharing platform, designating each with the corresponding H-__ number.

4. Electronic Presentation of Evidence

22. Each Party shall present demonstrative exhibits and evidence to the participants in the Hearing *via* the video platform system.
23. Hearing participants are advised to have the Electronic Hearing Bundle and any demonstrative exhibit previously distributed in accordance with paragraphs 20-22 *supra* downloaded into their own devices and available for access offline.
24. Demonstrative exhibits and clean, unannotated electronic copies of documents on the record may be displayed to all Hearing participants *via* the Zoom videoconference platform. Any Hearing participant shall have the technical ability to display a document to all Hearing participants *via* Zoom, and such person need not be an active speaker.

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25. Documents that do not form part of the record may not be presented at the Hearing.

E. WITNESS AND EXPERT EXAMINATION

26. The rules set out in Procedural Order No. 1 for the examination of witnesses and experts are confirmed. In particular, the examination and cross-examination will proceed in accordance with Section 22 of Procedural Order No. 1, which reads as follows:

22.1. Except with the leave of the Tribunal, no witness, called by a party, may be presented at a hearing whose written testimony or expert report has not been advanced with the pleadings, pursuant to § [18] above.

22.2. Before a hearing and within time limits to be set by the Tribunal, a party may be called upon by the Tribunal or the other party to produce at the hearing for examination and cross-examination any witness or expert whose written testimony or expert report has been advanced with the pleadings. Subject to possible reconsideration or limitations by the Tribunal, a party may also call its own experts or witnesses for examination at the hearing, even if such witnesses or experts have not been called by the other party.

22.3. The fact that a party does not call a witness or expert for cross-examination does not imply that the substance of any statement or report by such witness or expert is accepted.

22.4. The party presenting testimony shall take all measures necessary to ensure the witness appears at the hearing if requested by the other party or the Tribunal.

22.5. If a fact or expert witness is called to appear at the hearing and fails to do so without providing a valid reason, the Tribunal may disregard the written evidence of such witness. If a fact or expert witness fails to appear providing a valid reason, the Tribunal may reconvene a meeting and may hear the witness by videoconference.

22.6. Witnesses and experts shall be examined by each party under the control of the Tribunal.

22.7. Before giving evidence, witnesses shall make the declaration set out in ICSID Arbitration Rule 35(2), and experts shall make the declaration set out in ICSID Arbitration Rule 35(3).

22.8. Unless the Parties and the Tribunal agree otherwise, witnesses shall not be allowed in the hearing room before giving their oral evidence. Expert witnesses shall be allowed in the hearing room at all times.

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22.9. The Tribunal shall have the discretion, subject to the Parties' agreement, to order witness-conferencing (or hot-tubbing) of factual witnesses covering the same questions of fact or expert witnesses of like discipline.

22.10. Unless the Tribunal directs otherwise, the procedure for examining witnesses at the oral hearing(s) shall be as follows:

22.10.1. Generally, witnesses shall be examined before experts. Claimants' witnesses shall be examined first, followed by Respondent's witnesses. It may be that the Tribunal considers it more convenient to hear expert witnesses by discipline, rather than hearing all of the Claimants' expert witnesses first followed by all of the Respondent's expert witnesses. This will be considered further at the pre-hearing organizational meeting.

22.10.2. The Tribunal shall have the right to examine the witnesses and to ask questions during the examination by counsel. It shall ensure that each party has the opportunity to re-examine a witness with respect to questions raised by the Tribunal.

22.10.3. Each party shall present its own witnesses with a brief direct examination or, in the case of experts, at the party's discretion, with a presentation.

- During direct examination, a witness may address any point of fact or issue that has arisen since the witness submitted his or her most recent statement or expert report. In such case the witness shall provide, within a reasonable time prior to the hearing, a written statement informing on the new points, fact or issue.

- Thereafter, the other party shall proceed to cross-examine the witness. Subject to the direction of the Tribunal, which may rule as to relevance sua sponte or upon objection by the other party, there shall be no limitation on the scope of the cross-examination to the contents of the witness statement or expert report.

- The cross-examination shall be followed by a re-examination if the first party so wishes. The scope of the re-examination shall be limited to matters that have arisen in the cross-examination. The other party may then have an opportunity to proceed to a short re-cross in relation to any new matters or issues arising out of the re-direct examination.

22.11. The Tribunal shall at all times have complete control over the procedure in relation to oral evidence, including the right to limit or exclude any question, or to prevent a party from examining a witness when it considers that any factual allegation on which the witness is being examined is sufficiently proven by exhibits or other witnesses, or that the

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manner of examination of a given witness is irrelevant, immaterial, unduly burdensome or duplicative.

27. No person shall be present in the room with the testifying witness or expert.
28. Any communications by or with the witness or expert during their examination are prohibited.
29. Each witness and expert shall affirm at the start of the examination that he or she will not receive or provide communications of any sort during the course of his or her examination.
30. The witness or expert shall remain visible at all times during the examination. The witness or expert will be connected to the Hearing Waiting Room 30 minutes before his/her examination to ensure that s/he is available in time to be brought into the Hearing Room. During the breaks, the witness or expert will be taken to a virtual waiting room.
31. The witness or expert shall not use a “virtual background” or in any way prevent or limit the recording of the remote venue from which he or she is testifying.
32. The witness or expert shall be able to view the Tribunal Members, the attorneys conducting the examination, and documents presented by the examining attorney through the Zoom platform/uploaded onto BOX. The witness or expert shall not have access to any other documents, notes, information, or materials of any kind (whether in hard copy or electronic form).
33. Re-direct examination shall be permitted.
34. The order in which the witnesses and experts will appear is set forth below:
 - a. Christopher Zuech
 - b. Travis Taylor
 - c. Rory Walck

F. VIDEO RECORDING

35. The provision of Section 23.1 of Procedural Order No. 1 concerning audio recording (reproduced below) apply.

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23.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the Parties and the Tribunal Members.

36. The Secretariat shall record the Hearing, and the audio recording will be shared with the Parties and the Tribunal at the conclusion of the Hearing.
37. A video recording will also be made and will be made public and become part of the record of this arbitration (see paragraph 46, below).
38. Except for the court reporters that will do an audio recording of the Hearing, the Tribunal and the Parties agree that the attendees will not otherwise record, *via* audio, video or screenshot the Hearing or any part of it.

G. TRANSCRIPTION

39. The provisions of Procedural Order No. 1, Sections 23.2 and 23.3 concerning transcription (reproduced below) apply, with the adjustments indicated in paragraph 45 *infra*.

23.2. Verbatim transcript(s) in the procedural language(s) shall be made of any hearing and session other than sessions on procedural issues. Unless otherwise agreed by the Parties or ordered by the Tribunal, the verbatim transcripts shall be available in real-time using LiveNote or similar software and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.

23.3. The Parties shall notify each other of any material corrections to the transcripts that they have identified at the latest two weeks prior to the submission of post-hearing briefs (if any), and if no post-hearing briefs are ordered at the latest four weeks following the relevant hearing. The agreed corrections may be entered by the Parties or the court reporter in the transcripts [**“Revised Transcripts”**]. The Tribunal shall decide upon any disagreement between the Parties and any correction adopted by the Tribunal shall be entered by the Parties or the court reporter in the Revised Transcripts.

40. Real-time court reporting shall be made available to the Hearing participants *via* an online link connection to be provided by the court reporter. Hearing participants shall connect to the transcript by opening a link in a browser window separate from the Zoom browser window. The details (link, password) and instructions to connect to the streamed transcript shall be provided by the Secretariat to the Hearing participants before the start of the Hearing day.

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41. Transcription services will be provided by Diana Burden (the “court reporter”). The court reporter may seek to clarify the record from time to time during the course of the Hearing.
42. Participants may access the remote Real-time transcript on a laptop or iPad separate from the device used for Zoom. The Tribunal directs the testing of the Real-time transcription platform. That platform shall be used during trials of the Zoom platform as far as possible.
43. In accordance with Section 23.3 of Procedural Order No. 1, the deadline for corrections to the transcript shall be four weeks following the later of the dates of the receipt of the sound recordings and/or transcripts.

H. OPEN HEARING

44. In accordance with Section 21.6 of Procedural Order No. 1 and Article 10.20(2) of the US-Morocco FTA, the Hearing shall be open to the public. The Tribunal may hold portions of the Hearing *in camera* to the extent necessary to ensure the protection of confidential information.
45. Any information designated by one or both of the Parties as being protected information will be excluded from the public recordings.
46. The Parties disagree on whether the video recordings of the Hearing should be posted for viewing on the ICSID website. After careful consideration of the Parties’ positions, the Tribunal has decided that since, due to technical constraints, it is not possible to stream the Hearing, the transparency requirements of Article 10.20(2) of the US-Morocco FTA shall be achieved by posting the audio and video recordings (after editing, to remove protected information) on the ICSID website.
47. The required mechanics for the Parties to alert the Tribunal about the use of protected information during the Hearing are addressed in the Protocol attached hereto as **Annex C**.
48. The availability of the Hearing recordings will be announced publicly via the ICSID website.

I. POST-HEARING SUBMISSIONS

49. The provisions of Procedural Order No. 1, Section 24.1 (reproduced below) apply.

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24.1. Whether there will be post-hearing briefs, and if so, their content and their format, will be addressed at the close of the hearing.

J. VIRTUAL HEARING ARRANGEMENTS

50. The following procedures shall be followed in order to ensure the good conduct of the virtual Hearing:

1. Testing

51. The Secretariat will conduct technical tests with the Tribunal and each Party in advance of the Hearing, to test connectivity to the Zoom videoconference platform and to the transcription services. The Tribunal notes that the Secretariat recommends a minimum of two tests for each site that will connect to the Hearing, and for as many Hearing participants as possible to connect for each test. The date of each test will be communicated in due course. It will also include the court reporters.

52. Each participant should join the tests with the same device(s) and internet connection and from the same physical location that they intend to use for the Hearing.

2. Participants

53. Each Party shall provide its respective List of Hearing Participants (“List of Participants”) by January 8, 2021, using the format provided in **Annex B**. Each Party shall designate those participants that will have an active speaking role (“Active Participants”), and those who will be passive attendees (“Passive Participants”).

54. For ease of identification, Participants shall join the videoconference using the naming convention indicated in the format in **Annex B**, namely, first and last name preceded by [C] (for Participants for Claimants), [R] (for Participants for Respondent), [E] (for experts), [W] (for witnesses). Should there be Participants joining from a common conference room, the conference room connection may be identified as “[C] [R] Conference Room #” as appropriate.

55. Participants will join the videoconference through a “waiting room” to be managed by the external service provider retained for the hosting and technical support of the remote Hearing.

56. Access to the videoconference shall be restricted to those included in the List of Participants. Should any non-listed Participant attempt to connect to the videoconference,

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the technical operator hosting the meeting will alert the Secretary of the Tribunal, and the Tribunal will promptly address the matter with the Parties. All Participants in the Hearing bear an ongoing duty to warn of the presence of any other person on the videoconference.

57. Participants shall join the videoconference 30 minutes in advance of the start on each day to facilitate the identification and to address any technical contingencies.

3. Connectivity

58. The Parties shall ensure that each of their representatives, witnesses and experts will connect to the videoconference through a stable internet connection offering sufficient bandwidth and using a camera and microphone/headset of adequate quality.

59. If available, Participants are advised to use a wired Ethernet connection instead of Wi-Fi. Participants are also encouraged to keep a smartphone or tablet, having a 4G data connection and mobile hotspot functionality, available as a backup internet connection at all times during the Hearing.

60. The videoconference platform will also offer a dial-in telephone audio connection as a backup option should a Participant experience a temporary technical difficulty with a computer online connection. The Parties are advised that the dial-in back up telephone connection provides access to the “floor” audio channel only, not to the interpretation channels.

4. Equipment and Set Up

61. For optimum sound quality, especially for the audio recording and the transcription, ICSID highly recommends that the main speakers use an external microphone connection such as a headset through the USB or “mic” jack of the computer or laptop that they use for the Zoom videoconference. If not available, Active Participants are asked to speak close to the microphone.

62. While not indispensable, Hearing participants are advised to have at least two screens, and preferably three (it can be one device with multiple screens or a combination of devices including tablets) to facilitate simultaneous viewing of: (i) the Zoom video connection; (ii) the online Real-time transcript; and (iii) offline documents.

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5. Videoconference Etiquette

63. Once admitted to the videoconference, and barring technical issues or other exceptional circumstances, lead counsel and Party representatives should remain connected throughout the Hearing day.
64. The Parties are advised to keep the number of video connections to a minimum, and to Active Participants only. Passive Participants should join the meeting through their computer but connecting only their audio (i.e. turning their video off).
65. Participants shall use the “mute microphone” function when not speaking to reduce background noise and to avoid interference with the audio recording. The service provider serving as host of the videoconference shall have the ability to mute Participants if needed to avoid background noise, under the Tribunal’s control.
66. To facilitate the accurate transcription and interpretation, speakers are advised to speak at a reasonable speed and with pauses between phrases.
67. Participants are advised to join the Hearing from a location without background noise and with adequate lighting. Participants joining via video shall avoid sitting with a window or source of light behind them.

6. Break-Out Rooms

68. Break-out rooms separate from on virtual Hearing Room, to be used securely by each Party and the Tribunal during breaks, will be arranged by the third-party provider on the Zoom platform.
69. During the designated Hearing breaks, the Parties will be assigned to breakout rooms within the videoconference platform to enable to promptly reconvene all Participants following breaks.
70. The List of Participants (**Annex B**) shall indicate the break-out room to which Participants shall be assigned, with [C] for the Claimants’ break out room, [R] for the Respondent’s break out room. Should there be a break in the course of a given witness or expert examination, the testifying witness/expert will be isolated in a separate break out room identified as [W/E].
71. Each Party will make its own separate arrangements for private communication within its team during the Hearing by instant messenger or other appropriate means. The Zoom

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built-in chat function will be disabled, except for communications with the technical service provider acting as Zoom Operator.

K. GENERAL PROVISIONS

1. Reservation of immunities

72. Nothing in this Order shall constitute or be considered to be a limitation upon or a waiver of the privileges and immunities provided in Section 6 of the ICSID Convention, which privileges and immunities are specifically reserved.

2. Protected Information

73. Subject to the provisions on Open Hearings above and the Protocol on Protected information in **Annex C**, this ICSID proceeding, including all communications, is confidential. Participants in the remote Hearing must continue to comply with any applicable legal and ethical obligations with respect to protected information. All participants providing services shall (i) keep confidential all documents and information coming to their knowledge as a result of their participation in the Hearing; (ii) not use, or authorize any other person to use, such documents and information other than for the purpose of performing their work at the Hearing; and (iii) dispose all documents if printed, as confidential or protected material, and delete all electronic copies that might be stored on personal devices when their Hearing-related work has been completed.

3. Data Privacy

74. The List of Participants for the Hearing will contain personal data provided to ICSID in the context of the remote Hearing, including names and contact information, such as business email addresses and telephone numbers. This data is processed for the purpose of the legitimate interests of the Parties in resolving efficiently their dispute and, in particular, to ensure that procedural documents and Hearing arrangements are properly communicated to the Parties, their legal representatives, the Members of the Tribunal and other participants providing services for the Hearing.

On behalf of the Arbitral Tribunal,

[Signed]

Prof. Juan Fernández-Armesto
President of the Arbitral Tribunal
Date: January 6, 2021

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ANNEX A
HEARING AGENDA

Day 1: January 13, 2021

<i>Hour ET</i>	<i>Hour GMT</i>	<i>Hour CET</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM			(# hours/min.)	
8:30 AM	1:30 PM	2:30 PM	15 mins	Housekeeping
8:45 AM	1:45 PM	2:45 PM	2 hours	Respondent's Opening
10:45 AM	3:45 PM	4:45 PM	15 minutes	Break
11:00 AM	4:00 PM	5:00 PM	2 hours	Claimants' Opening
1:00 PM	6:00 PM	7:00 PM	15 minutes	Break
1:15 PM	6:15 PM	7:15 PM	45 minutes	Tribunal Questions
2:00 PM	7:00 PM	8:00 PM	--	End

Day 2: January 14, 2021

<i>Hour ET</i>	<i>Hour GMT</i>	<i>Hour CET</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM			(# hours/min.)	
8:30 AM	1:30 PM	2:30 PM	15 minutes	Housekeeping
8:45 AM	1:45 PM	2:45 PM	15 minutes	Mr Zuech presentation
9:00 AM	2:00 PM	3:00 PM	2 hours	Mr Zuech examination
11:00 AM	4:00 PM	5:00 PM	15 minutes	Break
11:15 AM	4:15 PM	5:15 PM	20 minutes	Mr Taylor presentation
11:35 AM	4:35 PM	5:35 PM	2 hours	Mr Taylor examination
1:35 PM	6:35 PM	7:35 PM	25 minutes	Break
2:00 PM	7:00 PM	8:00 PM	20 minutes	Mr Walck presentation
2:20 PM	7:20 PM	8:20 PM	2 hours	Mr Walck examination
4:20 PM	9:20 PM	10:20 PM	10 minutes	Break
4:30 PM	9:30 PM	10:30 PM	30 minutes	Tribunal time
5:00 PM	10:00 PM	11:00 PM	--	End

Day 3: January 15, 2021

<i>Hour ET</i>	<i>Hour GMT</i>	<i>Hour CET</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM			(# hours/min.)	
9:00 AM	2:00 PM	3:00 PM	15 minutes	Housekeeping
9:15 AM	2:15 PM	3:15 PM	1 h 30 minutes	Respondent's Closing
10:45 AM	3:45 PM	4:45 PM	15 minutes	Break
11:00 AM	4:00 PM	5:00 PM	1 h 30 minutes	Claimants' Closing
12:30 AM	5:30 PM	6:30 PM	15 minutes	Break
12:45 AM	5:45 PM	6:45 PM	20 minutes	Respondent's Rebuttal
1:05 PM	6:05 PM	7:05 PM	20 minutes	Claimants' Rebuttal
1:25 PM	6:25 PM	7:25 PM	35 minutes	Tribunal time
2:00 PM	7:00 PM	8:00 PM		End

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ANNEX B
LIST OF PARTICIPANTS

HEARING ON JURISDICTION
January 13-15, 2020
LIST OF PARTICIPANTS ¹

TRIBUNAL					
Room	Name	Role	Affiliation to Case	Location of Connection	Personal Contact (Optional)
T	[T] – Prof. Juan Fernández-Armesto	A	President	Office [City]	Email: Phone:
T	[T] – Dr. Horacio A. Grigera Naón	A	Co-arbitrator	Office [City]	Email: Phone:
T	[T] – Mr. Samuel Wordsworth, QC	A	Co-arbitrator	Home [City]	Email: Phone:

SECRETARY OF THE TRIBUNAL					
Room	Name	Role	Affiliation to Case	Location of Connection	Personal Contact
T	[T] – Ms. Ella Rosenberg	A	Secretary of the Tribunal	Home Uzès	Email: erosenberg@worldbank.org Phone:

ASSISTANT TO THE TRIBUNAL					
Room	Name	Role	Affiliation to Case	Location of Connection	Personal Contact
T	[T] – Ms. Francisca Seara Cardoso	A	Assistant to the Tribunal	Home [City]	Email: Phone:

CLAIMANT(S)					
Room	Name	Role	Affiliation to Case	Location of Connection	Personal Contact
2	<i>Counsel:</i>				

¹ Use “A” (Active Participants)/ “P” (Passive Participants). Only participants marked as “A” will activate their cameras during the Hearing.

² Witnesses [W] and Experts [E] called to testify will be assigned to the waiting room W/E during their cross-examination. Experts [E] will be assigned to Waiting Room [C] if they are present during any other time.

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C	[C] – Name Last name	A		Room [Firm][C] [City]	Email: Phone:
C	[C] –	A		Room [Firm][C] [City]	Email: Phone:
C	[C] –	A			Email: Phone:
	Party Representative:				
C	[C] – Name Last name	P		Home [C] []	
	Witnesses:				
W	[W] – Name Last name	A			
	Experts:				
C	E	[E] – Name Last name	A		

RESPONDENT					
Room 3	Name	Role	Affiliation to Case	Location of Connection	
	Counsel:				
R	[R] – Name Last name	A		Room [Firm] # 1 [R] [Washington, DC]	Email: Phone:
R	[R] – Name Last name	A		Room # 1 [R] [Washington, DC]	
	Party Representatives:				
R	[R] – Name Last name	P		Home [R] []	
R	[R] – Name Last name	P		Home [R] []	
	Witnesses:				
W	[W] – Name Last name	A			
	Experts:				
R	E	[E] – Name Last name	A		

COURT REPORTERS				
Room	Name and Contact	Role	Affiliation	Location of Connection
N/A	[CR] – Ms. Diana Burden didi@dianaburden.com	P		[City]

³ Witnesses [W] and Experts [E] called to testify will be assigned to Waiting Room W/E during their cross-examination. Experts [E] will be assigned to Waiting Room [R] if they are present during any other time.

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TECHNICAL SUPPORT STAFF				
Room	Name	Role	Affiliation to Case	Location of Connection
N/A	[IT] – Matt Simmons Matt.Simmons@fticonsulting.com	P	FTI	FTI
N/A	Celine Pommier cpommier@worldbank.org	P	Para legal, ICSID	Home [City]
N/A		P	IT FROM THE LAW FIRM	Room [Firm] # 1 [C] [City]
N/A		P		Room [Firm] # 1 [R] [City]

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ANNEX C
PROTOCOLS FOR PROTECTION OF “PROTECTED INFORMATION”

1. OBJECTIVES

1. These protocols are established to ensure:
 - a. Appropriate logistical arrangements for the open Hearing, in accordance with the transparency regime established by Article 10.20 of the US-Morocco FTA.
 - b. The protection of information designated as “protected information” (as defined in Article 10.27 of the US-Morocco FTA).
 - c. An efficient, smooth and minimally disrupted Hearing.

2. GENERAL RULES

2. As agreed by the Parties, the Hearing will be recorded. A copy of the recording will be posted on the ICSID website within 7 days after the conclusion of the Hearing.
3. “Protected information” shall be protected from disclosure by holding relevant parts of the Hearing “in private”, instead of publicly.
4. In order to facilitate the exclusion of Protected information, the Parties agree that the Hearing bundles shall be structured as follows:
5. In the primary volumes, the redacted versions of documents, including:
 - a. The redacted versions of the Parties’ submissions and exhibits, as amended further to the recent decision by the Tribunal.
 - b. The redactions to the Claimants’ exhibits, notwithstanding the fact that they have not been the subject of a decision by the Tribunal.
6. An additional volume for unredacted documents, including:
 - a. All the unredacted documents.
7. Insofar as any Party wishes to refer to the unredacted passage in a document, it will have to refer to the unredacted documents bundle. At any time when such a reference is made, the public video will be cut. Sparq or FTI should be able to assist in arranging this.

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8. The privacy of the Hearing shall be achieved, when necessary, through the moderation of the video feed.
9. The term “moderation” means that the video recording of the Hearing will be edited by the FTI/ SPARQ in conjunction with the Parties and ICSID to exclude protected information, within 7 days after the Hearing concludes.
10. The Parties shall follow the protocols established below to alert the Tribunal of the use of “confidential information” during the Hearing and request the “moderation” of the video feed.

3. PROTOCOLS

11. At any time during the Hearing, a Party may request that a part of the Hearing be held in private and that protected information be excluded from the recording. To this effect, a Party shall inform the Tribunal **before** the “protected information” is discussed, addressed or shown at the Hearing.
12. The Parties are responsible for identifying, **before** discussing, addressing or showing documents or information, whether these are “confidential information” or could raise confidentiality issues.
13. To minimize the number of interruptions, the Parties are invited to organize the topics addressed during their oral statements so that those which involve “protected information” are grouped together, wherever possible.
14. Each Party shall designate one member of its legal team who shall be responsible for bringing moderation requests to the Tribunal’s attention.
15. If a Party has an objection to a moderation request made by the other Party, it shall immediately alert the Tribunal, which shall hear the Parties and decide on the matter. The discussion between the Parties and the Tribunal shall be held “in private” (i.e. excluded from the public video recordings of the Hearing).
16. If the Tribunal decides that documents and information about to be discussed, addressed or shown warrant the Hearing to be temporarily held “in private”, the recording shall be moderated per the Tribunal’s instructions.

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17. Resumption of the video feed shall be requested by the Party which requested and obtained moderation (subject to any objection to resumption under protocol 11 above) or proposed by the Tribunal. Resumption may also be requested by the other Party if it deems it necessary. The Tribunal shall rule on any dispute between the Parties in that respect.