

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Amir Masood Taheri

v.

United Arab Emirates

(ICSID Case No. ARB/21/19)

DRAFT PROCEDURAL ORDER NO. 1

Members of the Tribunal

Prof. Juan Fernández-Armesto, President of the Tribunal
Mr. Klaus Reichert SC, Arbitrator
Prof. Raúl Vinuesa, Arbitrator

Secretary of the Tribunal

Dr. Laura Bergamini

Assistant to the Tribunal

Mr. Felipe Aragón

November 17, 2021

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Introduction

The first session of the Tribunal was held on October 7, 2021, at 5:00pm CEST (being 11:00am in Washington D.C.; 12:00pm in Buenos Aires; 4:00pm in London; 7:00pm in Abu Dhabi and 11:00pm in Singapore) by video-conference. The session was adjourned at 6:00pm CEST (being 12:00pm in Washington D.C.; 1:00pm in Buenos Aires; 5:00pm in London; 8:00pm in Abu Dhabi and 12:00am in Singapore).

An audio recording of the session was made and deposited in the archives of ICSID. The recording was distributed to the Members of the Tribunal and the Parties.

Participating in the conference were:

Members of the Tribunal:

Mr. Juan Fernández-Armesto, President of the Tribunal
Mr. Klaus Reichert SC, Arbitrator
Prof. Raúl Vinuesa, Arbitrator

ICSID Secretariat:

Dr. Laura Bergamini, Secretary of the Tribunal

Assistant to the Tribunal:

Mr. Felipe Aragón

Participating on behalf of the Claimant:

Mr. Jakob Ragnwaldh, Mannheimer Swartling Advokatbyrå AB
Ms. Åsa Waller, Mannheimer Swartling Advokatbyrå AB
Mr. Johan Grape, Mannheimer Swartling Advokatbyrå AB
Ms. Claire Zhang, Mannheimer Swartling Advokatbyrå AB

Participating on behalf of the Respondent:

Ms. Caroline Balme, Ministry of Foreign Affairs and International Cooperation
Dr. Paolo Busco, Ministry of Foreign Affairs and International Cooperation
Dr. Filippo Fontanelli, Ministry of Foreign Affairs and International Cooperation
Ms. Patricia Jimenez-Kwast, Ministry of Foreign Affairs and International Cooperation
Dr. Scott Sheeran, Ministry of Foreign Affairs and International Cooperation

The Tribunal and the Parties considered the following:

- The Draft Procedural Order circulated by the Tribunal Secretary on September 11, 2021; and
- The Parties' comments on the Draft Procedural Order received on September 27, 2021, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

Following the session, the Tribunal now issues the present:

PROCEDURAL ORDER NO. 1

Pursuant to ICSID Arbitration Rules 19 and 20, this first Procedural Order sets out the Procedural Rules that govern this arbitration. The Procedural Calendar is attached as **Annex A**. Amendments to the Procedural Calendar will be made by reissuing Annex A.

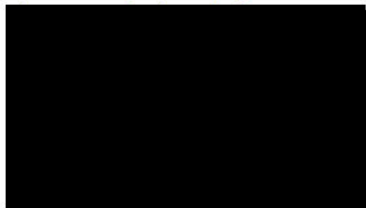
1. Applicable Arbitration Rules
Convention Article 44

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of April 10, 2006.
- 1.2. Without prejudice to applicable provisions of the ICSID Arbitration Rules, the Tribunal may take into consideration the International Bar Association Rules for the Taking of Evidence in International Arbitration (2020), the International Bar Association Guidelines on Party Representation in International Arbitration (2013) and the International Bar Association Guidelines on Conflict of Interest in International Arbitration (2014).

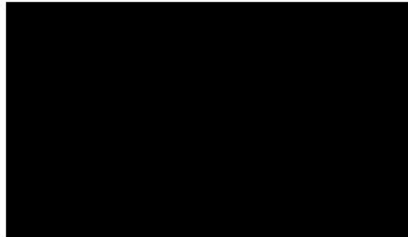
2. Constitution of the Tribunal and Tribunal Members' Declarations
Arbitration Rule 6

- 2.1. The Tribunal was constituted on August 31, 2021 in accordance with the ICSID Convention and the ICSID Arbitration Rules. The Parties confirmed that the Tribunal was properly constituted and that no Party has any objection to the appointment of any Member of the Tribunal.
- 2.2. The Members of the Tribunal timely submitted their signed declarations in accordance with ICSID Arbitration Rule 6(2). Copies of these declarations were distributed to the Parties by the ICSID Secretariat on August 31, 2021.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case.
- 2.4. The contact details for the Members of the Tribunal are:

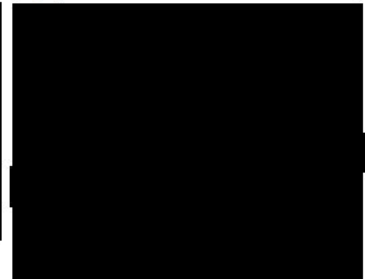
Prof. Juan Fernández-Armesto



Mr. Klaus Reichert SC



Prof. Raúl Emilio Vinuesa



3. Fees and Expenses of Tribunal Members

Convention Article 60; Administrative and Financial Regulation 14; ICSID Schedule of Fees

- 3.1. The fees and expenses of each Tribunal Member shall be determined and paid in accordance with the ICSID Schedule of Fees and the Memorandum on Fees and Expenses of ICSID Arbitrators in force at the time the fees and expenses are incurred.
- 3.2. Under the current Schedule of Fees, each Tribunal Member receives:
 - 3.2.1. US\$3,000 for each day of meetings or each eight hours of other work performed in connection with the proceedings or *pro rata*; and
 - 3.2.2. subsistence allowances, reimbursement of travel, and other expenses pursuant to ICSID Administrative and Financial Regulation 14.
- 3.3. Each Tribunal Member shall submit his claims for fees and expenses to the ICSID Secretariat on a quarterly basis.
- 3.4. Non-refundable expenses incurred in connection with a hearing as a result of a postponement or cancellation of the hearing shall be reimbursed.

4. Presence and Quorum

Arbitration Rules 14(2) and 20(1)(a)

- 4.1. The presence of all Members of the Tribunal constitutes a quorum for its sittings, including by any appropriate means of communication.

5. Rulings of the Tribunal

Convention Article 48(1); Arbitration Rules 16, 19 and 20

- 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 5.2. ICSID Arbitration Rule 16(2) applies to decisions taken by correspondence except that where the matter is urgent, the President may decide procedural matters without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.
- 5.3. The Tribunal will draft all rulings, including the award, within a reasonable time period.
- 5.4. The President is authorized to issue Procedural Orders on behalf of the Tribunal.
- 5.5. The Tribunal's rulings on procedural matters may be communicated to the Parties by the Tribunal Secretary electronically in the form of a letter or email.

5.6. Any ruling of the Tribunal, including the certified copy of the award, will be dispatched electronically to the Parties.

6. Power to Fix Time Limits
Arbitration Rule 26(1)

6.1. The President may fix and extend time limits for the completion of the various steps in the proceeding.

6.2. In exercising this power, the President shall consult with the other Members of the Tribunal. If the matter is urgent, the President may fix or extend time limits without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal
Administrative and Financial Regulation 25

7.1. The Tribunal Secretary is Dr. Laura Bergamini, Legal Counsel, ICSID, or such other person as ICSID may notify the Tribunal and the Parties from time to time.

7.2. To send copies of communications by email, mail, and courier/parcel deliveries to the ICSID Secretariat, the contact details are:

Dr. Laura Bergamini
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
USA
Tel.: + 1 (202) 473-6183
Fax: + 1 (202) 522-2615
Email: lbergamini@worldbank.org
Paralegal name: Ms. Elizabeth Starkey
Paralegal email: estarkey@worldbank.org

7.3. For local messenger deliveries, the contact details are:

Dr. Laura Bergamini
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036
USA
Tel. 202-458-1534

8. Assistant to the Tribunal

8.1. With the consent of the Parties, the following Assistant to the Tribunal is appointed:

Mr. Felipe Aragón



- 8.2. The Assistant works for Armesto & Asociados, the same firm of arbitrators to which the President belongs. Armesto & Asociados' professional activity is limited to acting as arbitrators. The Parties have received the Assistant's *curriculum vitae* on September 3, 2021 and his declaration of independence and impartiality on September 11, 2021.
- 8.3. The Members of the Tribunal will personally make all decisions required to adjudicate the merits of the present dispute and all procedural issues. The Assistant's tasks will be performed upon the President's specific instructions, under his direct supervision and responsibility, and will not release the Tribunal of any of its decision making duties.
- 8.4. When instructed by the President on behalf of the Tribunal, the Assistant may perform the following tasks in order to assist the Tribunal:
- Organize and maintain the President's arbitral file;
 - Attend meetings, hearings and deliberations; take notes; and
 - Summarize submissions, review evidence and authorities, conduct legal research, write notes or memoranda on factual and legal issues, prepare preliminary drafts of decisions or sections of awards under the specific instruction and continuous control and supervision of the President.
- 8.5. The Assistant shall be bound by the same duties of confidentiality, independence and impartiality as the Members of the Tribunal.
- 8.6. The Assistant will be remunerated directly by the President, without causing any additional cost to the Parties, save that the Assistant will be entitled to justified reasonable personal disbursements for attending hearings and meetings.
- 8.7. The Tribunal may remove the Assistant at its discretion. The Tribunal will remove the Assistant if the Assistant ceases to work for Armesto & Asociados. The Tribunal may appoint a substitute, by submitting to the Parties the substitute's *curriculum vitae* and declaration of independence and impartiality.

9. Representation of the Parties
Arbitration Rule 18

9.1. Each Party shall be represented by its counsel (below) and may designate additional agents, counsel, or advocates by notifying the Tribunal and the Tribunal Secretary promptly of such designation.

For the Claimant

Mr. Jakob Ragnwaldh
Ms. Claire Zhang

[REDACTED]

Tel.: [REDACTED]

Email: [REDACTED]

and

Ms. Åsa Waller

Mr. Johan GrapeMr. Ludwig Montan
Mannheimer Swartling Advokatbyrå AB

[REDACTED]

Tel.: [REDACTED]

Email: [REDACTED]

[REDACTED]

For the Respondent

H.E. Ambassador Abdalla Hamdan Al-Naqbi
Head of Department of International Law
Ministry of Foreign Affairs and International
Cooperation

[REDACTED]

Tel.: [REDACTED]

Email: [REDACTED]

and

Mr. Abdulla Mustafa Al-Jasmi
Head of Multilateral Treaties and Agreements
Section

Ministry of Foreign Affairs and International
Cooperation

Email: [REDACTED]

and

Mr. Humaid Abdalla Humaid Alnaqbi
Senior Legal Researcher for Bilateral
Agreements

Ministry of Foreign Affairs and International
Cooperation

Email: [REDACTED]

and

Dr. Scott Philip Sheeran
Senior Legal Advisor to the Assistant
Minister for Human Rights and International
Law

Ministry of Foreign Affairs and International
Cooperation

Email: [REDACTED]

and

Ms. Caroline Balme

Dr. Paolo Busco

Dr. Filippo Fontanelli

Ms. Patricia Jimenez-Kwast

Legal Counsel

Department of International Law
Ministry of Foreign Affairs and International
Cooperation

Email: [REDACTED]
[REDACTED]
[REDACTED]

10. Apportionment of Costs and Advance Payments to ICSID

Convention Article 61(2); Administrative and Financial Regulation 14; Arbitration Rule 28

- 10.1. The Parties shall cover the direct costs of the proceeding in equal parts, without prejudice to the final decision of the Tribunal as to the allocation of costs.
- 10.2. By letter of September 2, 2021, ICSID requested that each Party pay US\$ 150,000 to cover the initial costs of the proceeding. ICSID confirmed receipt of the Claimants' payment on October 6, 2021 and the Respondent's payment on September 17, 2021.
- 10.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

11. Place of Proceedings

Convention Articles 62 and 63; Administrative and Financial Regulation 26; Arbitration Rule 13(3)

- 11.1. Washington D.C., United States, shall be the place of proceedings.
- 11.2. The Parties shall negotiate in good faith to determine a cost efficient and agreeable place to hold in-person hearings.
- 11.3. The Tribunal may hold in-person hearings at any other place that it considers appropriate if the parties so agree.
- 11.4. The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

12. Procedural Language, Translation and Interpretation

Administrative and Financial Regulation 30(3) and (4); Arbitration Rules 20(1)(b) and 22

- 12.1. English is the procedural language of the arbitration.
- 12.2. Documents filed in any other language must be accompanied by a translation into English.

- 12.3. If the document is lengthy and relevant only in part, it is sufficient to translate only relevant parts, provided that the Tribunal may require a fuller or a complete translation at the request of any Party or on its own initiative.
 - 12.4. Translations need not be certified unless there is a dispute as to the content of a translation provided and the Party disputing the translation specifically requests a certified version.
 - 12.5. Documents exchanged between the Parties in a language other than English under §[17] below (Production of Documents) need not be translated.
 - 12.6. The testimony of a witness called for examination during the hearing who prefers to give evidence other than in the English language shall be interpreted, simultaneously if possible.
 - 12.7. The Parties will notify the Tribunal, as soon as possible, and no later than at the pre-hearing organizational meeting (see §[21] below), which witnesses or experts require interpretation.
 - 12.8. The costs of the interpreter(s) will be paid from the advance payments made by the Parties, without prejudice to the decision of the Tribunal as to which Party shall ultimately bear those costs.
13. Routing of Communications
Administrative and Financial Regulation 24
- 13.1. The ICSID Secretariat shall be the channel of written communications between the Parties and the Tribunal.
 - 13.2. Each Party's written communications shall be transmitted by email or other electronic means to the opposing Party and to the Tribunal Secretary, who shall send them to the Tribunal and the Assistant to the Tribunal.
 - 13.3. Electronic versions of communications ordered by the Tribunal to be filed simultaneously shall be transmitted to the Tribunal Secretary only, who shall send them to the opposing Party, the Tribunal and the Assistant to the Tribunal, once both Parties' communications are received.
 - 13.4. The Tribunal Secretary shall not be copied on direct communications between the Parties when such communications are not intended to be transmitted to the Tribunal.
14. Number of Copies and Method of Filing of Parties' Pleadings
Administrative and Financial Regulation 30; Arbitration Rules 20(1)(d) and 23
- 14.1. By the relevant filing date, the Parties shall:

- 14.1.1. submit by email to the Tribunal Secretary and the opposing Party an electronic version of the pleading with witness statements, expert reports and an index of all supporting documentation;¹ and
- 14.1.2. upload the pleading with all the supporting documentation and updated index to the file sharing platform that will be created by ICSID for purposes of this case [the “**Electronic Filing**”].

For the avoidance of doubt, the Electronic Filing process indicated in this subparagraph is applicable both to the original language submission and to any subsequent translations agreed by the Parties.

- 14.2. No later than three business days of the Electronic Filing, the Parties shall courier to Professor Vinuesa at the address indicated at §2.4 above one hard copy in A/4 format of the entire submission (including the pleading, the witness statements, expert reports and the updated index, but not any supporting documentation).²
 - 14.3. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word). Any spreadsheet or excel table shall be editable and all formulae visible; data used in the creation of spreadsheets and tables should indicate its source.
 - 14.4. All pleadings shall be accompanied by a cumulative index hyperlinked to all the supporting documentation that the Party has submitted up to the date of the pleading. The index shall indicate the document number and the pleading with which it was submitted. (Please follow the naming conventions contained in **Annex B**).
 - 14.5. The official date of receipt of a pleading or communication shall be the day on which the electronic file is sent to the Tribunal Secretary by email.
 - 14.6. A filing shall be deemed timely if sent by a Party by midnight, Washington, D.C. time, on the relevant date.
15. Preliminary Objections and Bifurcation
Arbitration Rule 41
- 15.1. Respondent may file with its Counter-Memorial objections that the dispute is not within the jurisdiction of the Centre or, for other reasons, is not within the competence of the Tribunal (Annex A-Scenario 1). In such case, the Tribunal will deal with the objections jointly with the merits of the dispute.

¹ Please note that the World Bank server does not accept emails larger than 25 MB.

² Prof. Fernández-Armesto and Mr. Reichert do not wish to receive hard copies of any documents, including the Parties’ pleadings, submissions, witness statements, expert reports or exhibits.

- 15.2. Respondent may alternatively file a Memorial on Preliminary Objections and a Request for Bifurcation, on the dates set out in Annex A-Scenario 2, requesting the Tribunal to suspend the proceedings on the merits and to deal with the objections as a preliminary question.
 - 15.3. In that case, after the Parties' written submissions on the Request for Bifurcation detailed in Annex A-Scenario 2, the Tribunal shall decide whether it deals with the objections as a preliminary question (in which case, Annex A-Scenario 2.2 shall apply) or whether it joins these to the merits of the dispute (in which case, Annex A-Scenario 2.1 shall apply)
 - 15.4. If the Tribunal decides to deal with the objections as a preliminary question (Annex A Scenario 2.2) and overrules the objections, it shall thereafter convene the Parties in order to fix time limits for the proceedings on the merits.
16. Number and Sequence of Pleadings
Arbitration Rules 20(1)(c), 20(1)(e), 29 and 31
- 16.1. The proceedings shall consist of a written phase followed by an oral phase.
 - 16.2. The number and sequence of pleadings, and the dates on which they are to be filed, shall be as set out in **Annex A**, as updated from time to time by the Tribunal, after consultation with the parties.
 - 16.3. The Parties' first submissions shall set forth the facts, the legal argumentation and the relief sought. The Parties should endeavor to discharge their burden of proof in their first submissions and should not rely on later submissions to provide evidence for unsupported allegations made in the first submissions. The Parties' subsequent submissions shall be limited to replying to the arguments that the counterparty has raised in its previous submission.
 - 16.4. All written submissions must contain consecutively numbered pages and paragraphs, and shall include a table of contents.
 - 16.5. Neither Party shall be permitted to submit additional pleadings with regard to the merits outside of the Procedural Timetable unless the Tribunal determines that exceptional circumstances exist based on a reasoned written request followed by observations from the other Party.
17. Production of Documents
Convention Article 43(a); Arbitration Rules 24 and 33-36
- 17.1. The Tribunal will issue a Procedural Order with specific instructions for the production of documents, after consultation with the Parties.

18. Submission of Documents

Convention Article 44; Administrative and Financial Regulation 30; Arbitration Rule 24

- 18.1. The Memorial and Counter-Memorial shall be accompanied by the documentary evidence relied upon by the Parties, including exhibits and legal authorities. Further documentary evidence relied upon by the Parties in rebuttal shall be submitted with the Reply and Rejoinder.
- 18.2. The documents shall be submitted in the manner and form set forth in §[14] above.
- 18.3. Following each factual allegation, the Parties shall make specific reference to evidence which supports that allegation. If an exhibit consists of more than one page, the Parties shall refer to the specific page and paragraph number upon which they rely and highlight the relevant section of the corresponding exhibit.
- 18.4. All documents and other evidence should be referenced in the Parties' respective pleadings. Parties should refrain from marshalling evidence without a specific reference in the submission with which the evidence is tendered.
- 18.5. Neither Party shall be permitted to submit additional or responsive documents or other evidence outside of the submission agreed to in the Procedural Calendar attached as Annex A unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other Party.
 - 18.5.1. Should a Party request leave to file additional or responsive documents, that Party may not annex the documents that it seeks to file to its request.
 - 18.5.2. If the Tribunal grants such an application for submission of an additional or responsive document, the Tribunal shall ensure that the other Party is afforded sufficient opportunity to make its observations concerning such a document.
- 18.6. The Tribunal may call upon the Parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 34(2).
- 18.7. The documents shall be submitted in the following form:
 - 18.7.1. The number of each Exhibit containing a document produced by Claimant shall be preceded by the letter "C-" for factual exhibits and "CL-" for legal exhibits containing authorities etc. The number for each Exhibit containing a document produced by Respondent shall be preceded by the letter "R-" for factual exhibits and "RL-" for legal exhibits containing authorities etc.
 - 18.7.2. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with "C-0001" and "R-0001," and "CL-001" and "RL-001" respectively. The number of the exhibit or legal authority shall appear on the first page of the document, and shall be incorporated into the file name in accordance with § 18.7.5.

- 18.7.3. Each document marshalled shall have an individual exhibit number. The Parties should not tender multiple documents under one exhibit number.
- 18.7.4. Exhibits should be submitted in a searchable electronic file format, whenever possible.
- 18.7.5. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex B**.
- 18.8. Copies of documentary evidence shall be assumed to be authentic unless specifically objected to by a Party, in which case the Tribunal will determine whether authentication is necessary.
- 18.9. The Parties shall file all documents only once by submitting them with their pleadings. Documents need not be resubmitted with witness statements even if referred to in such statements.
- 18.10. 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 which it is derived. The Party submitting such exhibits shall provide them in electronic and, if requested, hard copy to the other Party, the Tribunal Members, the Tribunal Secretary, the Assistant of the Tribunal, the court reporter(s) and interpreter(s) at the hearing at a time to be decided at the pre-hearing organizational meeting.

19. Witness Statements and Expert Reports
Convention Article 43(a); Arbitration Rule 24

- 19.1. Witness statements and expert reports shall be filed together with the Parties' pleadings.
- 19.2. Neither Party shall be permitted to submit any testimony that has not been filed with the written submissions, unless the Tribunal determines that exceptional circumstances exist based on a reasoned written request followed by observations from the other Party (following the procedure outlined in §[18]).
- 19.3. Each witness statement and expert report shall be signed and dated by the witness and include:
 - 19.3.1. A disclosure statement detailing any past and present relations of the witness with any Party, counsel or Member of the Tribunal;
 - 19.3.2. A description of the witness' position and qualifications, if relevant;

- 19.3.3. A full and detailed description of the facts, and the source of the witness's information as to those facts, sufficient to serve as that witness's evidence in the matter in dispute;
- 19.3.4. Any documents on which the witness relies that have not already been submitted (which shall be submitted with sequential numbering as documents);
- 19.3.5. A statement as to the language in which the witness statement was originally prepared and the language in which the witness anticipates giving testimony at the Hearing;
- 19.3.6. A declaration regarding whether the witness received any form of compensation for its testimony; and
- 19.3.7. An affirmation of the truth of the witness statement.
- 19.4. Witness Statements shall be submitted in a searchable electronic file format and have consecutive numbering on pages, headings and paragraphs.
- 19.5. It shall not be improper for a Party, its officers, employees, legal advisors or other representatives to interview its witnesses or potential witnesses and to discuss their prospective testimony with them.
- 19.6. Expert Reports shall be dated and signed by the expert or experts and contain:
 - 19.6.1. The full name of the expert;
 - 19.6.2. A disclosure statement detailing any past and present relations of the expert with any Party, counsel or Member of the Tribunal;
 - 19.6.3. A brief description of the expert's qualifications;
 - 19.6.4. A brief description of the instructions pursuant to which he or she is providing his or her opinions and conclusions;
 - 19.6.5. A statement of his or her independence from the Parties, their legal advisors and the Tribunal;
 - 19.6.6. A statement of the facts on which he or she is basing his or her expert opinions and conclusions;
 - 19.6.7. His or her expert opinions and conclusions, including a description of the methods, evidence and information used in arriving at the conclusions;
 - 19.6.8. The documents relied on by the expert in the preparation of his or her report, which shall be provided as annexes to the report (which may have their own

sequential numbering); any spreadsheet or table shall be editable and all formulae visible; data used in the creation of spreadsheets and tables should indicate its source; and

19.6.9. An affirmation of his or her genuine belief in the opinions expressed in the report.

19.7. Expert Reports shall be submitted in a searchable electronic file format and have consecutive numbering of pages, headings and paragraphs, as well as a detailed table of contents.

20. Examination of Witnesses and Expert
Arbitration Rules 35 and 36

20.1. A Party may be called upon by the opposing Party to produce at the hearing for cross-examination any factual or expert witness whose written testimony has been advanced with the Pleadings.

20.2. The Tribunal may disregard the testimony of a witness or expert called to testify at the hearing who fails to appear at the hearing without justified reasons. Examination by video conference may be permitted for justified reasons at the discretion of the Tribunal.

20.3. The Parties shall notify the opposing Party which witnesses and experts they intend to call for cross-examination on the date specified in the Procedural Timetable. Shortly after the Parties' notifications, the Tribunal will indicate which witnesses or experts, not called by the Parties, it wishes to question, if any.

20.4. Witnesses and experts shall be examined by each Party under the control of the Tribunal. The Tribunal may examine the witness or expert at any time during the oral procedure.

20.5. Direct examination is given in the form of witness statements and expert reports. However, the Party presenting the witness may conduct a brief direct examination at the hearing. Experts may summarize their reports and findings, either through direct examination or in the form of a brief presentation. Any witness or expert called for direct examination may be cross-examined by the other Party and questioned by the Tribunal.

20.6. As a general rule the scope of cross-examination will be limited to the contents of the witness statement or expert report. Re-direct examination shall as a general rule be limited to the subject of cross-examination. At the request of any Party and for good cause, the Tribunal may expand the scope of the cross-examination or the re-direct examination.

21. Pre-Hearing Organizational Meetings
Arbitration Rule 13

- 21.1. A pre-hearing organizational meeting shall be held on a date indicated in Annex A, or at another date determined by the Tribunal after consultation with the Parties. It shall comprise a teleconference or videoconference between the Tribunal, or its President, and the Parties and should resolve any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.
- 21.2. At a date to be determined by the Tribunal, and in any event no later than the date of the pre-hearing conference, the Parties shall submit to the Tribunal jointly – or, where they are unable to agree, separately – a proposal regarding a daily schedule for the hearing.
- 21.3. Following the pre-hearing organizational meeting, a Procedural Order will be issued by the Tribunal reflecting the decisions made in preparation for the hearing.

22. Hearings

Arbitration Rules 20(1)(e) and 32

- 22.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments, which shall include opening submissions and closing submissions.
- 22.2. The hearing may be held in-person or by any other means of communication as determined by the Tribunal after consultation with the Parties. An in-person hearing shall be held at a place to be determined in accordance with §[11] above.
- 22.3. The hearing shall take place after the filing of the last written submission, on a date indicated in Annex A, as updated from time to time.
- 22.4. The Members of the Tribunal shall endeavor to reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 22.5. The Parties agree that they shall be afforded equal time for oral arguments. The time afforded to each Party for witness examination shall be determined by the Tribunal in conformity with the principle of equality of arms, and might result in an uneven allocation of time, if the circumstances require.
- 22.6. The hearings will be closed to the public.
- 22.7. At a date to be determined by the Tribunal, and in any event no later than two weeks prior to the hearing, the Parties shall submit to the Tribunal jointly – or, where they are unable to agree, separately:
 - 22.7.1. A chronology of relevant facts in tabular form;
 - 22.7.2. A list and brief description of the individuals and entities who/which are part of the relevant factual background (“*dramatis personae*”); and

22.7.3. A list of the substantive issues required to be determined by the Tribunal.

23. Records of Hearings and Sessions
Arbitration Rules 13 and 20(1)(g)

- 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.
- 23.2. Verbatim transcripts in the procedural language 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, if possible, 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 agree on any corrections to the transcripts within 28 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by 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 court reporter in the revised transcripts.

24. Post-Hearing Memorials and Statements of Costs
Convention Article 44; Arbitration Rule 28(2)

- 24.1. The Tribunal will consult with the Parties at the end of the Hearing, and issue directions in relation to whether, and if so by which dates, the Parties shall submit Post-Hearing Memorials and a Statement of Costs.

25. Publication
Convention Article 48(5), Administrative and Financial Regulation 22, Arbitration Rule 48(4)

- 25.1. The ICSID Secretariat will publish the award and any order or decision in the present case where both Parties consent to publication. Otherwise, ICSID will publish excerpts of the award pursuant to Arbitration Rule 48(4) and include bibliographic references to rulings made public by other sources on ICSID’s website and in its publications.
- 25.2. When considering whether to consent to publication, each Party may condition its consent to the redaction of any confidential information from the award, order, or decision.

Finally, the Parties are encouraged to approach compliance with this Procedural Order (and any subsequent Procedural Orders) in the spirit of its intention, namely, to facilitate a just result and not create barriers to such a result.

[signed]

Juan Fernández-Armesto
President of the Tribunal
Date: November 17, 2021

ANNEX A

PROCEDURAL CALENDAR

1. Scenario 1: No Preliminary Objections or Preliminary Objections without Request for Bifurcation

Date	Lapse	Party / Tribunal	Description
7 October 2021		All	First Session
28 February 2022	4 months, 3 weeks	Claimant	Memorial
18 July 2022	4 months, 3 weeks	Respondent	Counter-Memorial [+ Preliminary Objections]
Document Production			
17 August 2022	1 month	Claimant and Respondent	Request for Production of Documents via Document Production Schedule ["DPS"]
16 September 2022	1 month	Claimant and Respondent	DPS Objections and delivery of Non-Contested Documents
30 September 2022	2 weeks	Claimant and Respondent	DPS Response to Objections and submission of DPS to the Tribunal
14 October 2022	2 weeks	Tribunal	Decision on DPS
14 November 2022	1 month	Claimant and Respondent	Production of Documents Ordered by the Tribunal
13 January 2023	2 months	Claimant	Reply on Merits [+ Counter-Memorial on Preliminary Objections]
14 March 2023	2 months	Respondent	Rejoinder on Merits [+ Reply on Preliminary Objections]
28 April 2023	1 month, 2 weeks	Claimant	[Rejoinder on Preliminary Objections]
TBD		Claimant and Respondent	Notification regarding witnesses and experts to appear for examination
TBD		All	Pre-Hearing Organizational Meeting
26-30 June 2023		All	Hearing
TBD at the end of the Hearing			PHB and Statements of Costs

2. Scenario 2: Preliminary Objections with Request for Bifurcation

Date	Lapse	Party/Tribunal	Description
28 February 2022	4 months, 3 weeks from First Session	Claimant	Memorial
1 May 2022	2 months	Respondent	Memorial on Preliminary Objections and Request for Bifurcation
30 May 2022	1 month	Claimant	Observations on Request for Bifurcation
13 June 2022	2 weeks	Respondent	Reply on Bifurcation
27 June 2022	2 weeks	Claimant	Rejoinder on Bifurcation
27 July 2022	1 month	Tribunal	Decision on Request for Bifurcation

2.1. If bifurcation is denied

Date	Lapse	Party/Tribunal	Description
14 October 2022	2 months, 3 weeks from Tribunal's Decision on RfB	Respondent	Counter-Memorial on the Merits
Document production			
14 November 2022	1 month	Claimant and Respondent	Request for Production of Documents via Document Production Schedule ["DPS"]
14 December 2022	1 month	Claimant and Respondent	DPS Objections and delivery of Non-Contested Documents
28 December 2022	2 weeks	Claimant and Respondent	DPS Response to Objections and submission of DPS to the Tribunal
11 January 2023	2 weeks	Tribunal	Decision on DPS
10 February 2023	1 month	Claimant and Respondent	Production of Documents Ordered by the Tribunal
11 April 2023	2 months	Claimant	Reply on the Merits and Counter-Memorial on Preliminary Objections
10 June 2023	2 months	Respondent	Rejoinder on the Merits and Reply on Preliminary Objections
25 July 2023	1 month, 2 weeks	Claimant	Rejoinder on Preliminary Objections
TBD		Claimant and Respondent	Notification regarding witnesses and experts to appear for examination
TBD		All	Pre-Hearing Organizational Meeting
2-6 October 2023		All	Hearing
TBD at the end of the Hearing			PHB and Statements of Costs

2.2. If bifurcation is granted

Date	Lapse	Party/Tribunal	Description
26 September 2022	2 months from Tribunal's Decision on RfB	Claimant	Counter-Memorial on Preliminary Objections
Document production			
26 October 2022	1 month	Claimant and Respondent	Request for Production of Documents via Document Production Schedule ["DPS"]
23 November 2022	1 month	Claimant and Respondent	DPS Objections and delivery of Non-Contested Documents
7 December 2022	2 weeks	Claimant and Respondent	DPS Response to Objections and submission of DPS to the Tribunal
21 December 2022	2 weeks	Tribunal	Decision on DPS
20 January 2023	1 month	Claimant and Respondent	Production of Documents Ordered by the Tribunal
6 March 2023	1 month, 2 weeks	Respondent	Reply on Preliminary Objections
20 April 2023	1 month, 2 weeks	Claimant	Rejoinder on Preliminary Objections
TBD		Claimant and Respondent	Notification regarding witnesses and experts to appear for examination
TBD		All	Pre-Hearing Organizational Meeting
26-30 June 2023		All	Hearing
TBD at the end of the Hearing			PHB and Statements of Costs

ANNEX B

ELECTRONIC FILE NAMING GUIDELINES

Please follow these guidelines when naming electronic files and for the accompanying Consolidated Hyperlinked Index. The examples provided (in *italics*) are for demonstration purposes only and should be adapted to the relevant phase of the case.

All pleadings and accompanying documentation shall indicate the LANGUAGE in which they are submitted (e.g. SPA=Spanish; FR=French; ENG= English). Such indication should be reflected both i) in the name used to identify each individual electronic file and ii) in the Consolidated Hyperlinked Index (which shall be attached to each submission).

For cases with a single procedural language, the “LANGUAGE” designation may be omitted, except for documents in a language other than the procedural language and the corresponding translations.

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
MAIN PLEADINGS	Title of Pleading–LANGUAGE
	<i>Memorial on Jurisdiction-FR</i>
	<i>Counter-Memorial on the Merits and Memorial on Jurisdiction-SPA</i>
	<i>Reply on Annulment-FR</i>
	<i>Rejoinder on Quantum-ENG</i>
SUPPORTING DOCUMENTATION Exhibits	C-####–LANGUAGE
	R-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S FACTUAL EXHIBITS
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	RESPONDENT’S FACTUAL EXHIBITS
	<i>R-0001-FR</i>
	<i>R-0002-SPA</i>
Legal Authorities	CL-####–LANGUAGE
	RL-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S LEGAL AUTHORITIES
	<i>CL-0001-ENG</i>
	<i>CL-0002-FR</i>
	RESPONDENT’S LEGAL AUTHORITIES
	<i>RL-0001-SPA</i>
	<i>RL-0002-ENG</i>
Witness Statements	Witness Statement–Name of Witness–Name of Submission–LANGUAGE
	<i>Witness Statement–Maria Jones–Memorial on Jurisdiction-SPA</i>

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	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
Expert Reports	<i>Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE</i>
	<i>Expert Report-Lucia Smith-Valuation-Memorial on Quantum-ENG</i>
	<i>Expert Report-Lucia Smith-Valuation-Reply on Quantum-[Second Report]-ENG</i>
Legal Opinions	<i>Legal Opinion-Name of Expert-Name of Submission-LANGUAGE</i>
	<i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits-FR</i>
	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]-FR</i>
Exhibits to Witness Statements, Expert Reports, Legal Opinions	WITNESS/EXPERT INITIALS-###
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i>
	<i>MJ-0001</i>
	<i>MJ-0002</i>
	<i>For exhibits filed with the Legal Opinion of [Tom Kaine]</i>
	<i>TK-0001</i>
	<i>TK-0002</i>
	<i>For exhibits filed with the Expert Report of [Lucia Smith]</i>
	<i>LS-0001</i>
	<i>LS-0002</i>
INDICES	Consolidated Hyperlinked Index
	Index of Exhibits-C-#### to C-####
	<i>Index of Exhibits-C-0001 to C-0023</i>
	Index of Legal Authorities-RLA-#### to RLA-####
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
OTHER APPLICATIONS	Name of Application-[Party]-LANGUAGE
	<i>Preliminary Objections under Rule 41(5)-SPA</i>
	<i>Request for Bifurcation-ENG</i>
	<i>Request for Provisional Measures-[Respondent]-SPA</i>
	<i>Request for Production of Documents-[Claimant]-SPA</i>
	<i>Request for Stay of Enforcement-FR</i>
	<i>Request for Discontinuance-[Claimant]-ENG</i>
	<i>Post-Hearing Brief-[Claimant]-SPA</i>
	<i>Costs Submissions-[Respondent]-ENG</i>
	<i>Observations to Request for [XX]-[Claimant]-SPA</i>