

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

In the arbitration proceeding between

MIRIAN G. DEKANOIDZE AND T.G. TRADE LLC

Claimants

v.

GEORGIA

Respondent

(ICSID Case No. ARB/23/45)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Ms. Judith Levine, President of the Tribunal

Dr. Hamid Gharavi, Arbitrator

Prof. Attila Massimiliano Tanzi, Arbitrator

Secretary of the Tribunal

Ms. Ella Rosenberg

5 September 2024

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Introduction

The first session of the Tribunal was held on 6 August 2024, at 8:00 AM (Washington D.C. time), by video conference via Zoom. The session was adjourned at 9:05 AM (Washington D.C. time).

A 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:

Ms. Judith Levine, President of the Tribunal
Dr. Hamid Gharavi, Arbitrator
Prof. Attila Massimiliano Tanzi, Arbitrator

ICSID Secretariat:

Ms. Ella Rosenberg, Secretary of the Tribunal
Mr. Yuichiro Omori, Legal Counsel
Mr. Shay Lakhter, Paralegal

On behalf of the Claimants:

Mr. Mirian Dekanoidze, Claimant
Mr. Michael Ostrove, DLA Piper France LLP, Claimants' Counsel
Ms. Cătălina Bîzîc, DLA Piper France LLP, Claimants' Counsel
Mr. Van Z Krikorian, Esq., Claimants' Counsel
Mr. Vlada Ratnikova, DLA Piper France LLP, Claimants' Counsel (intern)

On behalf of the Respondent:

Ms. Mariam Antia, Ministry of Justice of Georgia
Ms. Nino Chikhradze, Ministry of Justice of Georgia
Mr. Hussein Haeri KC, Withers LLP, Respondent's counsel
Dr. Robert Kovacs, Withers LLP, Respondent's counsel
Ms. Maanya Tandon, Withers LLP, Respondent's counsel

The Tribunal and the parties considered the following:

- The Draft Procedural Order No. 1 and No. 2 circulated by the Tribunal Secretary on 13 March 2024; and
- The parties' comments on the Draft Procedural Orders received on 1 August 2024, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

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- The parties' respective positions on the procedural timetable were received on 1 and 2 August 2024.

On 21 August 2024, the parties provided their joint proposal on the procedural calendar.

Having considered the above documents and the parties' views, including their comments on an updated draft circulated after the First Session, the Tribunal now issues the present Procedural Order No. 1:

Order

Pursuant to ICSID Arbitration Rules 27 and 29, this Procedural Order No. 1 sets out the Procedural Rules that govern this arbitration.

1. Applicable Arbitration Rules

Convention Article 44; Arbitration Rule 1

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of 1 July 2022.

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 21

- 2.1. The Tribunal was constituted on 8 March 2024, 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 19(3)(b). Copies of these declarations were distributed to the parties by the ICSID Secretariat upon acceptance of each arbitrator's appointment on 21 December 2023, 26 January 2024, and 8 March 2024.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case and that they will use best efforts to meet all time limits for orders, decisions and the Award, in accordance with ICSID Arbitration Rule 12(1).

3. Fees and Expenses of Tribunal Members

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

Fees; Memorandum on Fees and Expenses

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 in force at the time the fees and expenses are incurred.

4. Presence and Quorum
Arbitration Rule 33

4.1. The participation of a majority of the members of the Tribunal by any appropriate means of communications is required at the first session, case management conferences, hearings and deliberations, except as otherwise provided in the Arbitration Rules or unless the parties agree otherwise.

5. Rulings of the Tribunal
Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35

5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.

5.2. Orders, decisions and the Award may be made by any appropriate means of communication.

5.3. Orders, decisions and the Award may be signed electronically.

5.4. The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.

5.5. When 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.

5.6. The Tribunal's orders and decisions shall indicate the reasons upon which they are made. The reasons may be minimal for non-controversial or minor procedural, administrative and organizational matters, e.g., extensions of time.

5.7. The Tribunal will use best efforts to issue all rulings, including the Award, within the time limits prescribed by the ICSID Arbitration Rules. If the Tribunal cannot comply with an applicable time limit, it will advise the parties of the special circumstances justifying the delay and the date when it anticipates rendering the ruling, in accordance with ICSID Arbitration Rule 12(2), and will thereafter provide regular updates at its own initiative or upon the request of any party.

5.8. 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 Rules 10 and 11

6.1. The President may exercise the Tribunal's power to fix and extend time limits for the completion of each procedural step in the proceeding under Arbitration Rules 10(1) and 11(3), in accordance with Arbitration Rules 10(3) and 11(4).

6.2. In exercising the power to fix time limits under Arbitration Rule 10(1), the President shall consult with the parties as far as possible. If the matter is urgent, the President may fix time limits without consulting the parties, subject to possible reconsideration of such decision by the full Tribunal.

6.3. Short extensions of time may be agreed between the parties as long as (i) they do not affect any hearing dates or otherwise materially affect the overall schedule of the procedure as set out in the Procedural Timetable (defined below at §14.1), and (ii) the Tribunal is informed.

7. Secretary of the Tribunal

Administrative and Financial Regulation 28

7.1. The Tribunal Secretary is Ms. Ella Rosenberg, 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:

Ms. Ella Rosenberg
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.

Tel.: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Paralegal name: Mr. Shay Lakhter

Paralegal email: [REDACTED]

ICSID case address: [REDACTED]

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

Ms. Ella Rosenberg
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036
U.S.A.
Tel.: [REDACTED]

8. Representation of the Parties
Arbitration Rule 2

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

For the Claimants

Mr. Michael Ostrove
Mr. Théobald Naud
Ms. Lara Elborno
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For the Respondent

Mr. Hussein Haeri KC

Ms. Maanya Tandon
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Tel.: [REDACTED]
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Tel.: [REDACTED]
Emails:
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
and
Ms. Mariam Antia

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Head of the Department of State
Representation in Arbitration and Foreign
Courts
The Ministry of Justice of Georgia
24a Vakhtang Gorgasali Street
0114 Tbilisi
Georgia
Tel.: [REDACTED]
Email: [REDACTED]

8.2. The Tribunal may refuse designation of additional agents, counsel, or advocates if the designation would create a conflict of interest with one or more Members of the Tribunal.

9. Apportionment of Costs and Advance Payments to ICSID – Division of Advances
Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50

9.1. 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.

9.2. Following registration of the Request for arbitration, by letter of 3 October 2023, ICSID informed the Parties that USD 200,000 will be necessary to cover the estimated costs of the initial phase of the proceeding through the first session of the Tribunal and requested that the Claimants pay USD 200,000. ICSID confirmed its receipt of the Claimants' payment of USD 70,000 on 2 April 2024 and of USD 130,000 on 17 July 2024. By letter of 11 March 2024, ICSID requested that the Respondent pay USD 200,000. ICSID received the Respondent's payment on 14 August 2024.

9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

10. Place of Proceeding and Hearings
Convention Articles 62 and 63; Arbitration Rule 32

10.1. Paris (France) shall be the place of the proceeding.

10.2. The Tribunal may hold in-person hearings at any other place that it considers appropriate if the parties so agree. The method of holding a hearing will be determined in accordance with §21.2.

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- 10.3. The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

11. Procedural Language(s), Translation and Interpretation

Administrative and Financial Regulation 32; Arbitration Rule 7

- 11.1. English is the procedural language of the arbitration.
- 11.2. The Tribunal and the Secretariat shall communicate with the parties in the English language.
- 11.3. Documents filed in any other language must be accompanied by a translation into English.
- 11.4. It is sufficient to translate only the relevant part of a supporting document, unless the Tribunal orders a party to provide a fuller or a complete translation.
- 11.5. Translations need not be certified, unless the translation is disputed and the Tribunal orders a party to provide a certified translation.
- 11.6. Documents exchanged between the parties in a language other than English under §15 below (Production of Documents) need not be translated.
- 11.7. The parties will notify the Tribunal which witnesses or experts require interpretation, no later than when notifying which witnesses and experts are called for examination at the hearing in accordance with the Procedural Timetable (defined below at §14.1) and as soon as possible.
- 11.8. The testimony of a witness called for examination during the hearing is required to give evidence in a language other than in English shall be interpreted, simultaneously if possible.
- 11.9. The costs of interpretation 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.

12. Routing of Communications

Arbitration Rule 6

- 12.1. The ICSID Secretariat shall be the channel of written communications between the parties and the Tribunal.

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- 12.2. 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.
- 12.3. 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 and the Tribunal upon receipt of both sets of communications.
- 12.4. 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.

13. Number of Copies and Method of Filing of Parties' Pleadings
Arbitration Rules 4, 5 and 9

- 13.1. The parties shall:
 - 13.1.1. by the relevant filing date, 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
 - 13.1.2. within 3 business days from the relevant filing date, upload the pleading with all the supporting documentation and updated consolidated index to the file sharing platform that has been created by ICSID for purposes of this case.²
- 13.2. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be rendered text searchable (i.e., OCR PDF or Word) to the extent possible. Exhibits may be submitted in an extension other than .pdf when technically required (e.g., .xls (Excel) or .rar (WinRAR) files).
- 13.3. All pleadings shall contain consecutively numbered paragraphs and shall be accompanied by a cumulative index of all the supporting documentation that the party has submitted up to the date of the pleading. The index shall indicate the document number, the pleading with which it was submitted, and shall follow the naming conventions contained in **Annex A**.
- 13.4. At the conclusion of the written phase of the proceeding, on a date to be determined by the Tribunal, or at any other time the Tribunal or the Secretariat so requests, the parties shall upload to the file sharing platform, in a format that can be readily downloaded, an electronic copy of the entire case file (including pleadings, witness

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

² Supporting documentation shall be uploaded as individual files, not in .zip format.

statements, expert reports, exhibits, legal authorities and Tribunal decisions and orders to date) with a consolidated hyperlinked index of all documents.³

- 13.5. The official date of receipt of a pleading or written communication shall be the day on which the electronic file is sent to the Tribunal Secretary by email.
- 13.6. A filing shall be deemed timely if sent by a party by midnight, Washington, D.C. time, on the relevant date. If a filing falls on a Saturday or Sunday, the relevant date is the subsequent business day.

14. Number and Sequence of Pleadings – Procedural Calendar
Arbitration Rule 30

- 14.1. Taking into account the parties’ agreement on the procedural calendar reached on 21 August 2024, the number and sequence of pleadings shall be as provided in **Annex B** to this order for three scenarios: Scenario 1 (no bifurcation request); Scenario 2 (bifurcation requested but no bifurcation of proceedings); and Scenario 3 (bifurcation requested and granted). With respect to Scenario 3, the parties shall, by **5 November 2024**, provide their further joint or separate proposals for Steps 18 onwards, taking into account the time limits set out in Rule 58 of the ICSID Arbitration Rules. The Tribunal shall soon thereafter adopt a revised procedural timetable to include those steps as it considers appropriate. The timetable in Annex B, and any amendments thereto subsequently adopted by the Tribunal, shall be referred to as the “**Procedural Timetable**”.
- 14.2. In accordance with Arbitration Rule 30, in their second round of submissions (Reply and Rejoinder), the parties shall in principle limit themselves to responding to allegations of fact and legal arguments made by the other party in the first exchange of submissions, unless new facts have arisen after the first exchange of submissions which justify new allegations of fact and/or legal arguments.
- 14.3. In respect of each factual allegation, the parties shall, whenever possible, identify, with reference to the record, the evidence adduced or to be adduced in support of that allegation.
- 14.4. In respect of each legal argument, the parties shall, whenever possible, identify, with reference to the record, the legal authority adduced or to be adduced in support of that argument.

³ To ensure the full operation of the hyperlinked index, the entire folder shall be housed within one folder and then uploaded to BOX as a single zip file. Should the size of the zip file make the upload to BOX impossible, the parties shall upload the organized folder to a designated sub-folder on to the BOX filesharing platform, in a sub-folder and including a consolidated (non-hyperlinked) index.

15. Production of Documents

Convention Article 43(a); Arbitration Rules 5 and 36-40

- 15.1. Upon the request of a party filed within the time limit set in the Procedural Timetable, each party may request from the other party a disclosure of documents or categories of documents within its possession, custody or control. Such a request for production shall identify each document or narrow category of documents sought with precision, using the model schedule as attached in **Annex C** hereto, specifying why the documents sought are relevant to the dispute and material to the outcome of the case. In order to ensure simultaneous exchanges, the parties will send their requests to the Secretary of the Tribunal, who will then transmit both sets of materials to the parties simultaneously.
- 15.2. Within the time limit set forth by the Procedural Timetable, the other party shall either produce the requested documents or using the same schedule provided by the first party, submit its reasons for its failure or refusal to produce responsive documents (objections). In order to ensure simultaneous exchanges, the parties will send their documents and/or their objections to the Secretary of the Tribunal, who will then transmit both sets of materials to the parties simultaneously.
- 15.3. Within the time limit set forth by the Procedural Timetable, the requesting party may seek an order for production of documents sought and not produced, in which case it shall reply briefly to the other party's objections in that same document and submit the completed schedule to the Tribunal for a decision.
- 15.4. On or around the date set forth by the Procedural Timetable, the Tribunal will, at its discretion, rule upon the production of the documents or categories of documents having regard to all the relevant circumstances, including those mentioned in Arbitration Rule 37, and if appropriate the burden of proof. The Tribunal may take guidance from, but not be bound by, Articles 3 and 9 of the 2020 IBA Rules on the taking of evidence in international arbitration.
- 15.5. Documents shall be communicated directly to the requesting party without copying the Tribunal. Documents so communicated shall not be considered to be on record unless and until the requesting party subsequently files them as exhibits in accordance with §16 below.
- 15.6. In addition, the Arbitral Tribunal may order a party to produce documents on its own initiative at any time. In that case, the documents shall be submitted to the other party and to the Arbitral Tribunal in accordance with §16 below and shall be considered to be on record.
- 15.7. Should a party fail to produce documents as ordered by the Arbitral Tribunal, the Arbitral Tribunal shall draw the inferences it deems appropriate, in relation to the documents not produced, taking into consideration all relevant circumstances.

16. Submission of Documents

Convention Article 44; Arbitration Rule 5

- 16.1. 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.
- 16.2. The documents shall be submitted in the manner and form set forth in §13, above.
- 16.3. Neither party shall be permitted to submit additional or responsive documents after the filing of its respective last written submission, unless the Tribunal determines that special circumstances exist based on a timely and reasoned written application followed by observations from the other party.
 - 16.3.1. 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.
 - 16.3.2. 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 document.
- 16.4. The Tribunal may call upon the parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 36(3).
- 16.5. Documents shall be submitted in the following form:
 - 16.5.1. The number of each Exhibit containing a document produced by Claimants 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. Translations of factual or legal exhibits shall be included in the same file as the original document.
 - 16.5.2. 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 §16.5.4.

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- 16.5.3. A party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.
- 16.5.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 16.6. 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.
- 16.7. 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. The parties shall endeavour not to re-submit documents already filed by the opposing party unless there is a valid justification such as the document being incomplete.
- 16.8. At any hearing, the parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, etc. compiling information which is on record but not presented in such form), provided that they (i) identify the source in the record from which the information is derived, (ii) do not contain information not in the record. For the avoidance of doubt, presentations (such as PowerPoint slides) setting out the parties' argument are not in themselves considered demonstrative exhibits.
- 16.9. An electronic copy of each demonstrative exhibit and of any PowerPoint slides 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 Members of the Tribunals, the Tribunal Secretary, to the court reporter and to the interpreters as necessary by the deadline to be fixed at the pre-hearing organizational meeting.
- 16.10. In addition, promptly after the conclusion of the hearing day on 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 CD-__ or RD-__ number.
17. Witness Statements and Expert Reports
Convention Article 43(a); Arbitration Rule 38
- 17.1. Witness statements and expert reports shall be filed together with the parties' pleadings.
- 17.2. Any person may present evidence as a witness, including a party or a party's officer, employee, or other representative.

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- 17.3. Neither party shall be permitted to submit any testimony that has not been filed with the written submissions, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other party (following the procedure outlined in §16.3).
- 17.4. All witness statements and expert reports are to be in English, provided that for any witness not comfortable signing a statement written in English, such witness statement may be submitted in the witness' own language, together with an English translation on the due date for the relevant submission.
- 17.5. Each witness statement and expert report shall be signed and dated by the witness or expert and submitted electronically.
- 17.6. Witness statements and expert reports shall be accompanied by documents or information upon which they rely unless such documents or information have already been submitted as exhibits with the parties' submissions, in which case reference to such exhibits shall be sufficient.
- 17.7. In the event of multiple authors of an expert report, each expert shall identify which areas of the report they are responsible for.
- 17.8. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, assist in the preparation of witness statements and their examinations.

18. Examination of Witnesses and Experts

Arbitration Rule 38

- 18.1. Each party shall be responsible for securing the appearance of its own witnesses to a hearing, except when the opposing party has waived cross-examination of a witness and the Tribunal does not direct their appearance.
- 18.2. Each party shall be responsible for the practical arrangements, cost, and availability of any witness it offers. The Tribunal will decide upon the appropriate allocation of any related costs in the final award.
- 18.3. The Tribunal may call upon a party to produce as a witness and/or invite to appear as a witness any person who may have knowledge of relevant facts and has not been offered as a witness by the parties, after consultation with the parties.
- 18.4. If a witness fails to appear when first summoned to a hearing, the Tribunal may in its discretion summon the witness to appear a second time if satisfied that: (i) there was a valid reason for the first failure to appear; (ii) the testimony of the witness appears to be relevant to the dispute; and (iii) providing a second opportunity for

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the witness to appear will not unduly delay the proceedings, after consultation with the parties.

- 18.5. The Tribunal may consider the witness statement of a person who provides a valid reason for failing to appear when summoned to a hearing, having regard to all the surrounding circumstances, including the fact that the witness was not subject to cross-examination. The Tribunal shall not consider the witness statement of a witness who fails to appear and does not provide a valid reason. For these purposes, it shall be understood that a witness who was not called to testify in person has a valid reason not to appear and that a witness whom the Tribunal has allowed to testify by video-conference has appeared at the hearing.
- 18.6. At the hearing, the examination of each witness shall proceed as follows:
 - 18.6.1. The Presiding Arbitrator shall invite the witness to make a solemn declaration (Art. 38(6) or (8));
 - 18.6.2. The party who has presented the witness may briefly examine the witness (no longer than 10 minutes) for purposes of asking introductory questions, including to confirm and/or correct that witness's written statement, and to address matters which have arisen after such statement was drafted and which have been the subject of advance notice provided to the other side, in accordance with more specific directions to be discussed at the pre-hearing organizational meeting and in respect of which that witness has direct knowledge;
 - 18.6.3. The opposing party may then cross-examine the witness on relevant matters that either were addressed or presented by that witness in their statement or direct examination, or which otherwise form part of the record before the Tribunal and about which the witness is knowledgeable;
 - 18.6.4. The party who has presented the witness may then re-examine the witness with respect to any matters arising out of the cross-examination;
 - 18.6.5. The Tribunal may examine the witness at any time, either before, during, or after examination by one of the parties.
- 18.7. The rules set forth above at paragraphs 18.1 to 18.6 shall apply, with necessary modifications, to evidence given by an expert. Instead of direct examination, experts can give a presentation lasting no longer than forty-five minutes before the start of their cross-examination summarizing their methodology and conclusions. Experts may use PowerPoint or other slide presentations. To the extent that these presentations contain information which is on the record but not presented in such form, these shall be submitted in accordance with the provisions regarding demonstrative exhibits in this Procedural Order. If any corrections need to be made to an expert's report, this shall be done as soon as possible in an errata sheet of

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amendments. A corrected statement reflecting those amendments must be circulated at least 2 days before the hearing day on which the expert gives evidence.

- 18.8. The party presenting a witness or expert being examined shall ensure that a clean, hard copy of their witness statement or expert report is available to them for reference during their testimony.
- 18.9. In principle, witnesses and experts should be available one-half day before and after the time they are scheduled to be examined.
- 18.10. Unless the parties agree, or the Tribunal decides otherwise, and save for party representatives, a fact witness shall not be present in the hearing room during the hearing of oral testimony, discuss the testimony of any other witness, or read any transcript of any oral testimony, prior to their examination. An expert can be present in the hearing room during the parties' arguments and the giving of evidence of the witnesses and experts prior to their examination.
- 18.11. Once a witness or expert has commenced testifying at the hearing, they may not confer with counsel, party representatives or other witnesses and experts in relation to the subject matter of the testimony until the testimony is completed. A witness or expert shall be sequestered during breaks in the hearing, if breaks take place before a witness has completed their testimony.

19. Pre-Hearing Organizational Meetings

Arbitration Rule 31

- 19.1. A pre-hearing organizational meeting shall be held at a 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 address any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.
- 19.2. 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.

20. Case Management Conferences

Arbitration Rule 31

- 20.1. The Tribunal shall convene case management conferences (in the form of teleconferences or videoconferences between the Tribunal, and the parties) in accordance with ICSID Arbitration Rule 31 in order to (i) put in place a process to

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identify uncontested facts (e.g., through the submission of a joint chronology of facts); (ii) clarify and narrow the issues in dispute (e.g., by addressing tribunal questions, or submitting a decision tree, road map, matrix(es) and/or skeleton arguments); or (iii) address any other procedural or substantive issue related to the resolution of the dispute (e.g., the appointment of a Tribunal-appointed expert, or the production of evidence). It is expected that a case management conference will be held in accordance with the Procedural Timetable.

21. Hearings

Arbitration Rule 32

- 21.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 21.2. Such hearings will ideally be held in-person, at a place to be determined in accordance with §10 above, or by any other means of communication (such as virtual or hybrid form) as determined by the Tribunal after consultation with the Parties, and having due regard to the views of the parties and the specific circumstances of the case, including any relevant travel or public health/security restrictions.
- 21.3. The hearing(s) shall take place on the dates determined in the Procedural Timetable in **Annex B** and such further orders as to the Procedural Timetable that the Tribunal will make, following consultation with the Parties.
- 21.4. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 21.5. The allocation of time will be discussed at the pre-hearing organizational meeting.

22. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

- 22.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the parties and the Tribunal Members.
- 22.2. 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 and electronic transcripts shall be provided to the parties and the Tribunal on a same-day basis.

Procedural Order No. 1

- 22.3. The parties shall agree on any corrections to the transcripts within 30 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.

23. Post-Hearing Briefs and Statements of Costs

Convention Article 44; Arbitration Rules 51

- 23.1 The Tribunal shall decide at the hearing, after hearing the parties, whether and by when any post-hearing briefs may be required, and when cost submissions are to be made.
- 23.2. The Tribunal will issue directions on the parties’ statements of costs at the end of the hearing.

24. Transparency matters

Convention Article 48(5), Arbitration Rules 62-66

- 23.1. The parties agree that the transparency regime governing these proceedings is dealt with in Procedural Order No. 2.

25. Data Privacy and Cybersecurity

- 25.1. The Members of the Tribunal, the parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this arbitration proceeding.
- 25.2. The Members of the Tribunal, the parties and their representatives agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in the arbitration proceeding, where necessary. Should compliance with applicable law require action from another participant in the arbitration proceeding, the parties are invited to bring that to the attention of that other participant and/or to apply to the Tribunal for specific data protection measures to be put in place.
- 25.3. The parties and their representatives shall ensure that the storage and exchange of the personal data processed in this arbitration is protected by way of appropriate technical and organizational safeguards.

26. Amicable Dispute Settlement

26.1. The Tribunal notes that the parties may seek to reach an amicable settlement of all or part of the dispute, including through mediation under the ICSID Mediation Rules, at any time in the proceeding. If the parties settle the dispute in full, they may request that the Tribunal embody their settlement in its Award, pursuant to ICSID Arbitration Rule 55(2). Any agreement pursuant to ICSID Arbitration Rule 54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.

27. Other Matters

27.1. Participants in the arbitration shall act with integrity, respect, and civility vis-à-vis other participants, and generally conduct themselves with reference to the ICCA Guidelines on Standards of Practice in International Arbitration, available at: <https://www.arbitration-icca.org/icca-reports-no-9-guidelines-standards-practice-international-arbitration>.

On behalf of the Tribunal,

_____[Signature]_____

Ms. Judith Levine
President of the Tribunal
Date: 5 September 2024

Annex A – 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-####
	R-####
	To be produced sequentially throughout the case.
	CLAIMANTS’ FACTUAL EXHIBITS
	Description of the document (ENG), <i>C-0001</i>
	Description of the document (SPA), <i>C-0002</i>
	RESPONDENT’S FACTUAL EXHIBITS
	Description of the document (FR), <i>R-0001</i>
Description of the document (SPA), <i>R-0002</i>	
Legal Authorities	CL-####
	RL-####
	To be produced sequentially throughout the case.
	CLAIMANTS’ LEGAL AUTHORITIES
	Description of the document (ENG), <i>CL-0001</i>
	Description of the document (FR), <i>CL-0002</i>
	RESPONDENT’S LEGAL AUTHORITIES
	Description of the document (SPA), <i>RL-0001</i>
Description of the document (ENG), <i>RL-0002</i>	
Witness Statements	Witness Statement-Name of Witness-Name of Submission–LANGUAGE
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</i>
	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
Expert Reports	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE
	<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	Legal Opinion-Name of Expert-Name of Submission-LANGUAGE
	<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,	WITNESS/EXPERT INITIALS-###
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i> <i>MJ-0001</i>

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Legal Opinions	<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>
INDICES	<i>LS-0002</i>
	Consolidated Hyperlinked Index
	Index of Exhibits-C-#### to C-####
	<i>Index of Exhibits-C-0001 to C-0023</i>
OTHER APPLICATIONS	Index of Legal Authorities-RLA-### to RLA-###
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
	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-[Claimants]-SPA</i>
	<i>Request for Stay of Enforcement-FR</i>
	<i>Request for Discontinuance-[Claimants]-ENG</i>
	<i>Post-Hearing Brief-[Claimants]-SPA</i>
<i>Costs Submissions-[Respondent]-ENG</i>	
<i>Observations to Request for [XX]-[Claimants]-SPA</i>	

Annex B – Procedural Timetable

SCENARIO 1 – NO BIFURCATION REQUEST

Item	Event	Date	Interval
1.	Respondent’s Rule 41 Objection	19 July 2024	
2.	First Session	6 August 2024	
3.	Claimants’ Response to the Rule 41 Objection	4 October 2024	77 days (from item 1)
4.	Respondent’s Reply to the Rule 41 Objection	21 October 2024	17 days
5.	Claimants’ Rejoinder to the Rule 41 Objection	7 November 2024	17 days
6.	Parties to submit proposals for Rule 41 hearing schedule and time allocation	12 November 2024	5 days
7.	Hearing on the Rule 41 Objection via Zoom	19 November 2024 @9:30am Paris time [8:30am London; 12:30pm Tbilisi; 7:30pm Sydney]	12 days
8.	Tribunal’s Decision or Award	Week of 20 January 2025 (indicative)	60 days as per ICSID Rule 41(2)(e)
9.	Claimants’ Memorial	25 April 2025	95 (from item 8 if Tribunal decision issued on 20 January 2025)

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Item	Event	Date	Interval
			<i>Claimants reserve right to seek an extension to this deadline if Tribunal's Decision in item 8 is delayed beyond 8 Feb 2025</i>
10.	Respondent's Counter-Memorial and Objections to Jurisdiction	25 July 2025	91 days
11.	Parties' Requests for Production of Documents	8 August 2025	14 days
12.	Parties' Responses and/or Objections to Requests for Production of Documents	29 August 2025	21 days
13.	Parties' Replies to Objections to Requests for Production of Documents	12 September 2025	14 days
14.	Parties' Production of Documents which are not subject to Objections	19 September 2025	21 days (from item 12)
15.	Tribunal's Decision on Objections to Requests for Production of Documents	26 September 2025	14 days (from item 13)
16.	Parties' Production of Documents ordered by Tribunal	10 October 2025	14 days
17.	Case Management Conference	Week of 19 October 2025	N/A
18.	Claimants' Reply and Counter-Memorial on Jurisdictional Objections	14 November 2025	35 days (from item 16)
19.	Respondent's Rejoinder and Reply on Jurisdictional Objections	16 February 2026	94 days
20.	Claimants' Rejoinder on Jurisdictional Objections	2 April 2026	45 days
21.	Parties to identify witnesses and experts for cross-examination at hearing	TBD	4 weeks prior to hearing
22.	Pre-hearing organizational meeting	TBD	2 weeks prior to hearing
23.	Hearing	Week of 25 May 2026	

SCENARIO 2 – WITH BIFURCATION REQUEST BUT NO BIFURCATION OF PROCEEDINGS

Item	Event	Date	Interval
1.	Respondent’s Rule 41 Objection	19 July 2024	
2.	First Session	6 August 2024	
3.	Claimants’ Response to the Rule 41 Objection	4 October 2024	77 days (from item 1)
4.	Respondent's Reply to the Rule 41 Objection	21 October 2024	17 days
5.	Claimants’ Rejoinder to the Rule 41 Objection	7 November 2024	17 days
6.	Parties to submit proposals for Rule 41 hearing schedule and time allocation	12 November 2024	5 days
7.	Hearing on the Rule 41 Objection	19 November 2024 @9:30am Paris time [8:30am London; 12:30pm Tbilisi; 7:30pm Sydney]	12 days
8.	Tribunal’s Decision or Award	Week of 20 January 2025	60 days as per ICSID Rule 41(2)(e)
9.	Claimants’ Memorial	25 April 2025	92 (from item 8 if Tribunal decision issued on 20 January 2025) <i>Claimants reserve right to seek an extension to this deadline if Tribunal’s Decision in item 8 is delayed beyond 8 Feb 2025</i>

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Procedural Order No. 1 – Annexes

Item	Event	Date	Interval
10.	Respondent's bifurcation request (Arbitration Rules 42 and 44)	9 June 2025	45 days (from item 9)
11.	Claimants' observations to bifurcation request	1 July 2025	22 days
12.	Tribunal's decision on bifurcation	31 July 2025	30 days
13.	Respondent's Counter-Memorial and Objections to Jurisdiction	13 October 2025	74 days (from item 12)
14.	Parties' Requests for Production of Documents	27 October 2025	14 days
15.	Parties' Responses and/or Objections to Requests for Production of Documents	10 November 2025	14 days
16.	Parties' Replies to Objections to Requests for Production of Documents	24 November 2025	14 days
17.	Parties' Production of Documents which are not subject to Objections	27 November 2025	17 days (from item 15)
18.	Tribunal's Decision on Objections to Requests for Production of Documents	8 December 2025	14 days (from item 16)
19.	Parties' Production of Documents ordered by Tribunal	22 December 2025	14 days
20.	Case Management Conference	Week of 5 January 2026	N/A
21.	Claimants' Reply and Counter-Memorial on Jurisdictional Objections	26 January 2026	35 days (from item 19)
22.	Respondent's Rejoinder and Reply on Jurisdictional Objections	24 April 2026	88 days
23.	Claimants' Rejoinder on Jurisdictional Objections	29 May 2026	35 days
24.	Parties to identify witnesses and experts for cross-examination at hearing	TBD	4 weeks prior to hearing
25.	Pre-hearing organizational meeting	TBD	2 weeks prior to hearing
26.	Hearing	Week of 15 June 2026	

SCENARIO 3 – BIFURCATION REQUEST, BIFURCATION GRANTED

Item	Event	Date	Interval
1.	Respondent’s Rule 41 Objection	19 July 2024	
2.	First Session	6 August 2024	
3.	Claimants’ Response to the Rule 41 Objection	4 October 2024	77 days (from item 1)
4.	Respondent’s Reply to the Rule 41 Objection	21 October 2024	17 days
5.	Claimants’ Rejoinder to the Rule 41 Objection	7 November 2024	17 days
6.	Parties to submit proposals for Rule 41 hearing schedule and time allocation	12 November 2024	5 days
7.	Hearing on the Rule 41 Objection	19 November 2024 @9:30am Paris time [8:30am London; 12:30pm Tbilisi; 7:30pm Sydney]	12 days
8.	Tribunal’s Decision or Award	Week of 20 January 2025	60 days as per ICSID Rule 41(2)(e)
9.	Claimants’ Memorial	25 April 2025	92 (from item 8 if Tribunal decision issued on 20 January 2025) <i>Claimants reserve right to seek an extension to this deadline if Tribunal’s Decision in item 8 is delayed beyond 8 Feb 2025</i>

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Procedural Order No. 1 – Annexes

Item	Event	Date	Interval
10.	Respondent's Bifurcation request (Arbitration Rules 42 and 44)	9 June 2025	45 days (from item 9)
11.	Claimants' observations to bifurcation request	1 July 2025	24 days
12.	Tribunal's decision on bifurcation	31 July 2025	30 days
13.	Respondent's bifurcated objections	11 September 2025	42 days
14.	Claimants' response to bifurcated objections	23 October 2025	42 days
15.	Respondent's reply on bifurcated objections	21 November 2025	29 days
16.	Claimants' rejoinder on bifurcated objections	22 December 2025	31 days
17.	Hearing on bifurcated objections	Week of 12 January 2026	21 days
18.	Tribunal's decision on bifurcated objections	<i>[Steps 18 to 32 to be subject of Party proposals per para 14.1 of this Procedural Order, to be finalized in a subsequent Order by the Tribunal]</i>	
19.	Respondent's Counter-Memorial and Objections to Jurisdiction (if any others)		
20.	Parties' Requests for Production of Documents		
21.	Parties' Responses and/or Objections to Requests for Production of Documents		
22.	Parties' Replies to Objections to Requests for Production of Documents		
23.	Parties' Production of Documents which are not subject to Objections		
24.	Tribunal's Decision on Objections to Requests for Production of		

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Item	Event	Date	Interval
	Documents		
25.	Parties' Production of Documents ordered by Tribunal		
26.	Case Management Conference		
27.	Claimants' Reply and Counter-Memorial on Jurisdictional Objections		
28.	Respondent's Rejoinder and Reply on Jurisdictional Objections		
29.	Claimants' Rejoinder on Jurisdictional Objections		
30.	Parties to identify witnesses and experts for cross-examination at hearing		
31.	Pre-hearing organizational meeting		
32.	Hearing		

Annex C – Model schedule for document requests

Document Request No.	
A. Documents or category of documents requested (requesting Party)	
B. Relevance and materiality (requesting Party) (1) para. ref. to submissions (2) comments	
C. Objections to document request (objecting Party)	
D. Response to objections and request for resolution (requesting Party)	
E. Decision of the Tribunal	