

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Honduras Próspera Inc., St. John's Bay Development Company LLC, and Próspera  
Arbitration Center LLC**

**v.**

**Republic of Honduras**

**(ICSID Case No. ARB/23/2)**

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**PROCEDURAL ORDER No. 4  
on *Amicus Curiae* Applications**

***Members of the Tribunal***

Prof. Juan Fernández-Armesto, President of the Tribunal  
Mr. David W. Rivkin, Arbitrator  
Prof. Raúl E. Vinuesa, Arbitrator

***Secretary of the Tribunal***

Mr. Marco Tulio Montañés-Rumayor

***Assistant of the Tribunal***

Mr. Antonio Gordillo

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24 January 2025

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1. Article 10.20.3 of the CAFTA-DR grants the Tribunal “the authority to accept and consider amicus curiae submissions from a person or entity that is not a disputing party”. ICSID Arbitration Rule 67 regulates the “Submission of Non-Disputing Parties”, and Procedural Order No. 3, dated 15 December 2024, provided for the procedure for potential *amici curiae* “to make a written application to the Tribunal for permission to file submissions”<sup>1</sup>.
2. On 10 January 2025 the Tribunal received petitions to intervene as *amici curiae* from:
  - Free Cities Foundation [“**Free Cities**”], which describes itself as “a non-profit organization based in Wyoming, USA, that promotes the development of autonomous zones to protect individual rights and economic freedoms”<sup>2</sup>;
  - Infinita City, Inc [“**Infinita City**”], which describes itself as “a for-profit corporation registered [...] in the State of Delaware, USA”, who “has a subsidiary incorporated in the jurisdiction of Próspera ZEDE in the Republic of Honduras”. Both Infinita City and its subsidiary “are dedicated to accelerating the development of biotechnology, by providing a platform for entrepreneurs, engineers, and scientists that collaborate on advancements in medical technology”<sup>3</sup>; and
  - A group of six “international investment law practitioners and economic development experts” [the “**Practitioners**”], who describe themselves as “leading practitioners” in certain fields of international law and economics<sup>4</sup>.
3. Free Cities and the Practitioners have also requested access to case materials that would be necessary to prepare their submissions<sup>5</sup>.
4. On 17 January 2025
  - Claimants did “not object to the admission of the three referenced amicus curiae submissions”; with respect to access to case materials, they “noted as a general matter that the transparency provisions in CAFTA-DR apply”<sup>6</sup>;
  - Respondent, in turn, requested the Tribunal to reject all requests<sup>7</sup>.

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<sup>1</sup> Procedural Order No. 3, para. 1.

<sup>2</sup> Free Cities’ petition, Section 3.

<sup>3</sup> Infinita City’s petition, Section 3.

<sup>4</sup> Practitioners’ petition, Section 3. The six Practitioners are Messrs. Eduardo Cabrera Solano, José Augusto Toledo Cruz, Juan Carlos Castillo, Mario Archila, Olav Dirkmaat and Gustavo Hernández.

<sup>5</sup> Free Cities’ petition, Section 7; Practitioners’ petition, Section 1.

<sup>6</sup> Claimants’ letter dated 17 January 2025, p. 6.

<sup>7</sup> Respondent’s letter dated 17 January 2025, p. 7.

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5. The Tribunal expresses its gratitude to the three petitioners for their willingness to assist. However, in this preliminary phase of the proceedings, the Tribunal's sole task is to determine whether Claimants were required to exhaust local remedies in Honduras before bringing their claims to ICSID. This is a technical legal question that has already been extensively addressed and debated by the Parties – assisted by highly-qualified counsel with significant expertise in the field – through over 200 pages of written submissions and during the hearing held in December 2024. In these circumstances, the Tribunal does not find that the submissions the petitioners request to make<sup>8</sup> “would assist [it] to determine a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge or insight that is different from that of the parties”<sup>9</sup>.
6. Accordingly, the Tribunal denies the petitions from Free Cities, Infinita and the Practitioners to file written submissions as *amici curiae*. Consequently, Free Cities and the Practitioners' request for access to the case file is rendered moot and is hereby denied.
7. These are, however, *pro tem* decisions and only apply to this phase of the proceedings. Should this arbitration proceed to the merits phase after the Tribunal's decision on Respondent's Preliminary Objections, the Tribunal would be open to considering new applications to participate as *amici curiae*.

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<sup>8</sup> Free Cities submits that it is “uniquely positioned to assist the Tribunal by offering context-specific expertise on: The governance principles underpinning Próspera ZEDE; The broader implications of Honduras' actions on the viability of similar autonomous zones globally; and The importance of honoring government commitments to foster international investment and uphold the rule of law” (Section 4 of its petition).

The Practitioners assert that they “are uniquely positioned to assist the Tribunal through: Analysis of legal stability frameworks and their role in investment protection; Empirical evidence regarding economic development impacts; and Expert perspective on international investment protection standards” (Section 4 of their petition). The Tribunal tends to think that such assistance would fall outside the narrow scope of this preliminary phase.

Infinita, “wishes to make brief and specific contributions to the legal discussion that motivates the preliminary objection”, namely regarding (i) “the legal nature of the declaration made by the Republic of Honduras in Legislative Decree 41-88”, (ii) “how [such declaration] cannot affect a conventional provision contained in an international treaty”, (iii) “the implications of the authorization given by the Republic of Honduras to investors to file actions in ICSID under Legislative Decree 51-2011, and (iv) “the shift in narrative that the Republic of Honduras has maintained regarding what it now identifies as a Declaration” (Section iv of its petition). These issues, however, have already been addressed by the Parties in the arbitration, and Infinita has failed to demonstrate why it would be able to provide knowledge or insight that is different from that of the Parties.

<sup>9</sup> ICSID Arbitration Rule 67(2).

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On behalf of the Tribunal,

[Signed]

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Prof. Juan Fernández-Armesto  
President of the Tribunal