

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Libra LLC and Others**

**v.**

**Republic of Azerbaijan**

**(ICSID Case No. ARB/23/46)**

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**PROCEDURAL ORDER NO. 1**

***Members of the Tribunal***

Professor Eduardo Zuleta Jaramillo, President of the Tribunal

Mr. D. Brian King, Arbitrator

Professor Claus von Wobeser, Arbitrator

***Secretary of the Tribunal***

Leah W. Njoroge

***Assistant to the Tribunal***

Maria Marulanda-Mürle

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January 3, 2025

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**Introduction**

The first session of the Tribunal was held on December 5, 2024 at 9:00am Washington, D.C. time, by video conference via Zoom. The session was adjourned at 9:59am.

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:

Professor Eduardo Zuleta Jaramillo, President of the Tribunal  
Mr. D. Brian King, Arbitrator  
Professor Claus von Wobeser, Arbitrator

ICSID Secretariat:

Ms. Leah W. Njoroge, Secretary of the Tribunal  
Ms. Ekaterina Minina Polifron, ICSID Paralegal

Tribunal Assistant:

Ms. Maria Marulanda-Mürle

On behalf of the Claimants:

Mr. Reginald R. Smith, King & Spalding LLP  
Mr. Kevin D. Mohr, King & Spalding LLP  
Ms. Jessica Beess und Chrostin, King & Spalding LLP

On behalf of the Respondent:

Dr. Anthony Sinclair, Quinn Emanuel Urquhart & Sullivan UK LLP  
Dr. Eirini Kikarea, Quinn Emanuel Urquhart & Sullivan UK LLP  
Ms. Emma Bohman-Bryant, Quinn Emanuel Urquhart & Sullivan UK LLP

The Tribunal and the Parties considered the following:

- The Draft Procedural Orders No. 1 and 2 circulated by the Tribunal Secretary on November 21, 2024; and
- The Parties' comments on the Draft Procedural Orders received on December 2, 2024, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

Having considered the above documents and the Parties' views, the Tribunal now issues the present Order:

## **Order**

Pursuant to ICSID Arbitration Rules 27 and 29, this Procedural Order sets out the Procedural Rules that govern this arbitration. The timetable is attached as **Annex B**.

### 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 July 1, 2022.

### 2. Constitution of the Tribunal and Tribunal Members' Declarations

*Arbitration Rule 21*

2.1. The Tribunal was initially constituted on June 6, 2024 in accordance with the ICSID Convention and the ICSID Arbitration Rules. The Tribunal was reconstituted on November 12, 2024 following the resignation of arbitrator Ms. Carolyn B. Lamm. The Parties have confirmed that the Tribunal as currently constituted 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 June 6, 2024 for Professor Zuleta and Mr. King, and on November 12, 2024 for Professor von Wobeser.

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).
- 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.

7. Secretary of the Tribunal

*Administrative and Financial Regulation 28*

- 7.1. The Tribunal Secretary is Leah W. Njoroge, Legal Counsel, ICSID, or such other person as ICSID may notify to 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. Leah W. Njoroge  
ICSID  
MSN C3-300  
1818 H Street, N.W.  
Washington, D.C. 20433  
U.S.A.  
Tel.: + 1 (202) 473-7727  
Fax: + 1 (202) 522-2615  
Email: lnjoroge@worldbank.org  
Paralegal name: Ms. Ekaterina Minina Polifron  
Paralegal email: eminina@worldbank.org

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

Leah W. Njoroge  
ICSID  
1225 Connecticut Ave., N.W.  
(World Bank C Building)  
3rd Floor - MSN C300  
Washington, D.C. 20036  
U.S.A.  
Tel.: +1 (202) 458-1534

8. Assistant to the Tribunal

- 8.1. By letter of June 13, 2024, the President explained to the Parties that he considered that it would benefit the overall cost and time efficiency of the proceedings if the Tribunal had an assistant. The President proposed, with the approval of the other Members of the Tribunal, that Ms. Maria Marulanda-Mürle, a self-employed lawyer, be appointed as assistant to the Tribunal. Ms. Marulanda-Mürle's *curriculum vitae* was distributed to the Parties.
- 8.2. The President further explained that the assistant would (i) undertake only such specific tasks as are assigned to her by the Tribunal such as the marshaling of evidence, research of specific issues of law, organization of case documents and drafting correspondence to the Parties; reviewing the Parties' submissions and evidence, and drafting factual chronologies and memoranda summarizing the parties' submissions and evidence; preparing for the Tribunal's review drafts of

procedural orders and portions of a decision or award, provided that such procedural orders and portions of the decision or award are subsequently reviewed by the Tribunal itself; attending hearings, meetings and deliberations; taking notes or minutes or keeping time; conducting legal or similar research; and proof-reading and checking citations, dates and cross-references in procedural orders, decisions, and awards, as well as correcting typographical, grammatical or calculation errors; (ii) assist the Tribunal during its deliberations; and (iii) be subject to the same confidentiality obligations as the Members of the Tribunal and sign a declaration to that effect.

- 8.3. The Parties consented to the appointment of Ms. Marulanda-Mürle as assistant to the Tribunal on the terms set out in §8.2 by their respective communications of June 17, 2024.
- 8.4. The Parties also agreed that the assistant would receive: (i) US\$250 for each hour of work performed in connection with the case and (ii) expenses reimbursed as described in the Secretariat's letter of June 13, 2024.

9. Representation of the Parties  
*Arbitration Rule 2*

- 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 Claimants

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c/o Mr. Reginald R. Smith  
Mr. Kevin D. Mohr  
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1100 Louisiana Street, Suite 4100  
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and  
Ms. Jessica A. Beess und Chrostin  
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1185 6th Avenue of the Americas  
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United States  
and  
Ms. Héloïse Hervé  
King & Spalding International LLP  
48 bis, rue de Monceau  
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French Republic

For Respondent

Republic of Azerbaijan  
c/o Dr. Anthony Sinclair  
Mr. Epaminontas Triantafilou  
Ms. Melis Acuner  
Ms. Hafsa Zayyan  
Dr. Eirini Kikarea  
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- 9.2. After hearing the Parties, 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 Arbitral Tribunal.

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

- 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. Following registration of the Request for Arbitration, by letter of October 19, 2023, ICSID informed the Parties that US\$300,000 would be necessary to cover the estimated costs of the initial phase of the proceeding through the first session of the Tribunal, as well as the subsequent phase, and requested that the Claimants pay US\$150,000. ICSID received the Claimants' payment on November 9, 2023. Upon the constitution of the Tribunal, by letter of June 7, 2024, ICSID requested that the Respondent pay US\$150,000. By letter dated July 18, 2024, ICSID informed the Parties of the Respondent's default and requested either Party to pay the outstanding payment by August 2, 2024. On August 12, 2024, ICSID received the Claimants' payment of US\$ 150,000 corresponding to the Respondent's portion of the advance requested on June 7, 2024. On August 28, 2024, ICSID confirmed receipt of the Respondent's payment of US\$150,000 and advised the Parties that the Claimants' supplemental payment would be credited towards any future advance requested of the Claimants.
- 10.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

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

- 11.1. Washington, D.C. shall be the place of the proceeding.
- 11.2. After consultation with the Parties, the Tribunal may hold in-person hearings at any other place that it considers appropriate or virtual hearings in the case provided for under §23.4. The method of holding a hearing will be determined in accordance with §23.3.



11.3. 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 32; Arbitration Rule 7*

12.1. English is the procedural language of the arbitration.

12.2. The Tribunal and the Secretariat shall communicate with the Parties in the English language.

12.3. Documents filed in any other language must be accompanied by a translation into English.

12.4. 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.

12.5. Translations need not be certified, unless the translation is disputed and the Tribunal orders a party to provide a certified translation.

12.6. As a general principle, the cost of a translation shall be borne initially by the Party providing the translation, without prejudice to the decision of the Tribunal as to which Party or Parties shall ultimately bear those costs and in what amount.

12.7. Documents exchanged between the Parties in a language other than English under §16 below (Production of Documents) need not be translated.

12.8. 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 (see Schedule Annex B below) and as soon as possible.

12.9. The testimony of a witness called for examination during the hearing who gives evidence in a language other than English shall be interpreted, simultaneously if possible.

12.10. 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.

13. Routing of Communications

*Arbitration Rule 6*

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 Tribunal's assistant.
- 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 and the Tribunal and the Tribunal's assistant.
- 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  
*Arbitration Rules 4, 5 and 9*

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;<sup>1</sup> and
- 14.1.2. within four business days, upload the pleading with all the supporting documentation and an updated index to the file sharing platform that has been created by ICSID for purposes of this case.<sup>2</sup>

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- 14.1.3. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word), unless it is impossible or disproportionately burdensome to produce a particular document in such format. Additionally, if any such electronic file requires a password to copy and paste the contents of the file into another document, the Party submitting the file shall include the password in the index referenced in paragraph 14.1.4.
  - 14.1.4. 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 and the pleading with which it was submitted, and shall follow the naming conventions contained in **Annex A**.
- 14.2. 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

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

<sup>2</sup> Supporting documentation shall be uploaded as individual files, not in .zip format. The Parties may consider uploading a hyperlinked index in .zip file format to the platform to preserve the hyperlinks.

downloaded, an electronic copy of the entire case file (including pleadings, witness statements, expert reports, exhibits, legal authorities and Tribunal decisions and orders to date) with a consolidated hyperlinked index of all documents.<sup>3</sup>

- 14.3. 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.
- 14.4. 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.

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

- 15.1. The number and sequence of pleadings or written submissions, comprising the written phase of the arbitration in accordance with Arbitration Rules 29 and 31, is established in the Procedural Timetable, attached as **Annex B** to this Procedural Order.
- 15.2. The Parties' initial written submissions (i.e., Memorial and Counter-Memorial) shall contain a comprehensive statement of the facts and legal arguments upon which they rely, together with the relief they claim, and shall attach all documentary evidence, evidence of any witness of fact or expert witness and all statutes, case law, doctrine or other legal writings on which that Party relies in support of those submissions.
- 15.3. The Parties' further written submissions (i.e., Reply and Rejoinder) may include new factual allegations, and be accompanied by additional factual exhibits, legal authorities, witness statements, and expert reports, insofar as such factual allegations or accompanying materials i) respond to or rebut matters raised in the adverse Party's immediately preceding written submission (and accompanying materials), ii) relate to the documents produced during the document production phase, iii) relate to new factual or legal developments that could not have been addressed in prior submissions, or justified by other exceptional circumstances.
- 15.4. The Parties' Reply and Rejoinder shall be limited to 150 pages (excluding cover page, table of contents, glossary, and signature page).

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<sup>3</sup>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, including a consolidated (non-hyperlinked) index.

16. Production of Documents

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

- 16.1. The International Bar Association Rules on the Taking of Evidence in International Arbitration (2020) shall guide, but not bind, the Tribunal and the parties in relation to the production of documents in this case.
- 16.2. Each Party may request the production of a reasonable number of documents, or narrow categories of documents, relevant and material to the outcome of the dispute from the other Party in accordance with the procedural calendar for the arbitration set forth in Annex B. Requests for the production of documents shall be in writing (transmitted in both Word and PDF format) and set forth brief reasons for the request in respect of each document or class of documents requested. Unless the requested Party objects to production, it shall produce the requested documents within the applicable time limit. The reasons for each request shall not exceed 250 words.
- 16.3. If the requested Party objects to production, the following procedure shall apply:
  - 16.3.1. The requested Party shall submit a response stating which documents or class of documents it objects to producing. The response shall state the reasons for each objection in no more than 250 words.
  - 16.3.2. The requesting Party shall respond to the other Party's objection, indicating, with reasons, in no more than 250 words, whether it disputes the objection.
  - 16.3.3. The Parties shall submit all outstanding requests, objections, and responses to objections to the Tribunal for decision in tabular form pursuant to the model appended to this Procedural Order as Annex C (modified Redfern schedule). The Parties shall use the same format throughout their exchange of requests, objections, and responses. No additional submissions or attachments may be filed with Annex C.
  - 16.3.4. The Tribunal shall rule on any outstanding requests and may for this purpose refer to the IBA Rules on the Taking of Evidence in International Arbitration 2020 in regard to matters concerning the gathering or taking of evidence, that are not otherwise covered by this procedural order or the ICSID Arbitration Rules. Documents ordered by the Tribunal to be disclosed shall be produced within the time limit set forth in the procedural calendar.
  - 16.3.5. The Parties shall not copy the Tribunal on their correspondence or exchanges of documents in the course of the document production phase. Documents produced by the Parties in response to document production requests shall only form part of the evidentiary record if a Party subsequently submits them as exhibits to its written submissions or upon authorization of the Tribunal after the exchange of submissions.

16.3.6. Should a Party fail to produce documents as ordered by the Tribunal, the Tribunal may draw the inferences it deems appropriate in relation to the documents not produced, taking into consideration all relevant circumstances.

17. Submission of Documents

*Convention Article 44; Arbitration Rule 5*

17.1. 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.

17.2. The documents shall be submitted in the manner and form set forth in §14, above.

17.3. 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.

17.3.1. 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.

17.3.2. 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.

17.4. The Tribunal may call upon the Parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 36(3).

17.4.1. Without limitation, in the exercise of its powers the Tribunal may, on its own motion or at the reasoned written request of a Party, call upon a Party to produce a witness for examination at the hearing. The requesting Party must indicate in its request the relevance of the testimony of the witness and the reasons why such Party considers that the witness is under the legal or practical control of the other Party.

17.4.2. If the Tribunal exercises this power, it will specify the topics on which the witness is called to testify and will determine the procedure for examination of the witness.

17.5. Documents shall be submitted in the following form:

17.5.1. 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.

- 17.5.2. 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 §17.5.4.
- 17.5.3. A party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.
- 17.5.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 17.6. 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.
- 17.7. 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.
18. Witness Statements and Expert Reports  
*Convention Article 43(a); Arbitration Rule 38*
- 18.1. Witness statements and expert reports shall be filed together with the Parties’ pleadings.
- 18.2. 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 §17.3).
- 18.3. Each witness statement and expert report shall be signed and dated by the witness and shall include a photograph of the witness or expert.
- 18.4. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, prepare the witness statements and the examinations.
- 18.5. Expert reports shall be accompanied by documents or information upon which the experts 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.

19. Examination of Witnesses

*Arbitration Rule 38*

- 19.1. Each party shall be responsible for securing the appearance of its own witnesses at the hearing, except when the other party has waived cross-examination of a witness and the Tribunal does not direct his or her appearance. If a witness fails to appear at the hearing without justification, the Tribunal may order that the witness statement be struck from the record, or may attach such weight to the witness statement as it thinks appropriate in the circumstances. If a party does not exercise its right to cross-examine a witness, it shall not amount to any admission as to that witness's testimony, and the Tribunal shall attach such weight thereto as it deems appropriate in the circumstances.
- 19.2. Witnesses shall in principle be examined in person. By way of exception, examination by videoconference may be permitted for justified reasons at the discretion of the Tribunal. In the event any witness is examined by videoconference, no person other than the witness shall be present in the same room as the witness during the examination and, upon the request of either Party, the Tribunal may require a 360-degree camera in the room with the witness to ensure compliance with this provision.
- 19.3. The Tribunal will determine the order in which the witnesses and experts will be called after consultation with the parties during the pre-hearing organizational meeting (see §20 below).
- 19.4. By the date set forth in Annex B, each party shall notify the other party, with a copy to the Tribunal, which witnesses and experts of the opposing party it wishes to cross-examine at the hearing. The Tribunal will then, by the date set forth in Annex B, identify the witnesses or experts not called by the parties whom it wishes to question, if any.
- 19.5. In principle, fact witnesses shall be examined before expert witnesses, and Claimants' witnesses shall be examined first, followed by Respondent's witnesses.
- 19.6. Witnesses shall be examined by each party under the control of the Tribunal, which shall at all times ensure balance and fairness between the parties. At the hearing, the examination of each witness shall proceed as follows:
  - 19.6.1. The witness shall make the declaration specified in Arbitration Rule 38.
  - 19.6.2. The written witness statement or report of each witness called for cross-examination shall stand in lieu of the examination by the party producing the witness ("direct examination"). However, the Party who presents the witness may briefly (in principle no more than 10 minutes for a witness of fact) examine the witness in direct for purposes of asking introductory questions, including to



confirm and/or correct that witness's written statement, and to address facts which have arisen after such statement was drafted.

19.6.3. The scope of cross-examination shall be limited to matters addressed in the witness statement of the person being examined and/or in his/her direct examination. Cross-examination shall also be permitted on matters for which the record demonstrates the witness has personal knowledge (e.g., documents he/she has authored or been sent, meetings attended).

19.6.4. The party who has presented the witness may conduct a redirect examination of the witness with respect to any matters arising out of the cross-examination.

19.6.5. The Tribunal may examine the witness at any time, either before, during or after examination by one of the parties.

19.7. In general, no fact witness shall be present in the hearing room, or be furnished with transcripts of the hearing, prior to his or her examination. Notwithstanding the foregoing, each Party may designate one party representative who is entitled to attend and obtain transcripts of the hearing at any time even if he or she is also a fact witness. If he or she is a fact witness, then he or she should be heard as a witness at the hearing prior to any other witnesses of that party.

## 20. Examination of Experts

### *Arbitration Rule 38*

20.1. The rules set forth in §19.5 above shall apply by analogy to the evidence of experts, with the following specifications:

20.1.1. Before giving oral evidence, the expert shall make the declaration specified at Arbitration Rule 38.

20.1.2. At the party's discretion, experts may summarize their reports and findings, either through direct examination or in the form of a presentation.

20.1.3. Subject to a different agreement by the parties or a different ruling by the Tribunal, the limitation at §19.6 shall not apply to expert witnesses.

20.2. Subject to the approval or at the discretion of the Tribunal, experts of similar discipline, if any, may be examined by way of expert conferencing.

## 21. Pre-Hearing Organizational Meetings

### *Arbitration Rule 31*

21.1. A pre-hearing organizational meeting shall be held. 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.

- 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.

22. Case Management Conferences

*Arbitration Rule 31*

- 22.1. The Tribunal shall convene case management conferences with the Parties in accordance with ICSID Arbitration Rule 31 in order to (i) put in place a process to 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 after the first round of written submissions in accordance with Annex B.

23. Hearings

*Arbitration Rule 32*

- 23.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 23.2. Unless otherwise agreed during the pre-hearing conference, the Parties shall make opening statements. At the pre-hearing conference, the Parties and the Tribunal will discuss the need and modalities for oral closing statements.
- 23.3. 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.
- 23.4. 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, the Tribunal may decide to hold a hearing remotely or in a hybrid form. In the event any hearing is held remotely or in hybrid form, no Member of the Tribunal shall be in the same location as any Party, and the Members of the Tribunal shall be either all in the same location or all in separate locations.
- 23.5. The hearing shall take place on the dates specified in **Annex B**. If as a result of amendments to the procedural calendar the time between the last submission and the hearing is less than 8 weeks, the Tribunal may, after consulting the Parties, set a new date for the hearing.

- 23.6. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 23.7. While consideration of the question of the allocation of time between the parties at the hearing is deferred to the pre-hearing organizational meeting, the presumption is that the parties will split the time equally between them unless a different allocation is appropriate in light of a material difference in the number of witnesses and/or experts.
- 23.8. The hearings shall be closed to the public, and neither recordings or transcripts shall be made public.
- 23.9. During any hearing, the Parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, illustrations, 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, and (ii) do not contain information not in the record.
- 23.9.1. An electronic copy of each demonstrative exhibit 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 Tribunal, the Tribunal Secretary, the Tribunal's assistant, the court reporter, and to the interpreters (as necessary) at least 3 hours before its intended use. For the avoidance of doubt, PowerPoint slides that only contain verbatim quotations from the record or textual summaries of argument are not demonstrative exhibits for the purpose of this paragraph. If requested by an arbitrator or a Party, hard copies shall be provided to such arbitrator or Party and the commencement of presentation.
- 23.9.2. An electronic copy of PowerPoint slides that only contain verbatim quotations from the record or textual summaries of argument shall be distributed by the Party intending to use it via an email sent to the entire case email distribution for each party, the Members of the Tribunal, the Tribunal Secretary, the Tribunal's assistant, the court reporter, and to the interpreters (as necessary), immediately prior to its intended use.
- 23.9.3. In addition, promptly after the conclusion of the hearing day on which any demonstrative exhibit or PowerPoint slide is used, the Party using it shall upload it to the case folder in the BOX filesharing platform, designating each demonstrative exhibit with the corresponding CD-\_\_ or RD-\_\_ number and each PowerPoint presentation with the corresponding CP-\_\_ or RP-\_\_ number.
- 23.9.4. The expenses in connection with the hearing will initially be shared equally between the Parties, without prejudice to the Tribunal's decision on the costs of the arbitration.

24. Recordings of Hearings and Sessions

*Arbitration Rule 29(4)(i)*

- 24.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the Parties and the Tribunal Members.
- 24.2. Verbatim transcript(s) 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.
- 24.3. 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.

25. Post-Hearing Memorials and Statements of Costs

*Convention Article 44; Arbitration Rules 51*

- 25.1. At the conclusion of any hearing, the Tribunal will consult with the parties and issue directions in relation to whether, and if so by which dates, the parties shall submit post-hearing memorials. Unless the Tribunal determines otherwise, the post-hearing briefs shall contain no new evidence.
- 25.2. At the appropriate stage, the Tribunal will also consult with the parties in relation to when and in what form the parties shall file evidence regarding the quantification of the costs, including any argument in relation thereto.

26. 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.

27. Data Privacy and Cybersecurity

- 27.1. 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.
- 27.2. 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.

- 27.3. 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.

28. Amicable Dispute Settlement

- 28.1. 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. Arbitration Rule 55(2) applies if the Parties agree on a settlement of the dispute before the Award is rendered.

On behalf of the Tribunal,

[signed]

Professor Eduardo Zuleta Jaramillo  
President of the Tribunal  
Date: January 3, 2025

## 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
<b>MAIN PLEADINGS</b>	<b>Title of Pleading–LANGUAGE</b>
	<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>
<b>SUPPORTING DOCUMENTATION</b>  Exhibits	<b>C-####–LANGUAGE</b>
	<b>R-####–LANGUAGE</b>
	To be produced sequentially throughout the case.
	<b>CLAIMANTS’ FACTUAL EXHIBITS</b>
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	<b>RESPONDENT’S FACTUAL EXHIBITS</b>
	<i>R-0001-FR</i>
	<i>R-0002-SPA</i>
	Legal Authorities
<b>RL-####–LANGUAGE</b>	
To be produced sequentially throughout the case.	
<b>CLAIMANTS’ LEGAL AUTHORITIES</b>	
<i>CL-0001-ENG</i>	
<i>CL-0002-FR</i>	
<b>RESPONDENT’S LEGAL AUTHORITIES</b>	
<i>RL-0001-SPA</i>	
<i>RL-0002-ENG</i>	
Witness Statements	<b>Witness Statement–Name of Witness–Name of Submission–LANGUAGE</b>
	<i>Witness Statement–Maria Jones–Memorial on Jurisdiction-SPA</i>
	<i>Witness Statement–Maria Jones–Reply on Jurisdiction–[Second Statement]–ENG</i>
Expert Reports	<b>Expert Report–Name of Expert–Type–Name of Submission–LANGUAGE</b>
	<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	<b>Legal Opinion–Name of Expert–Name of Submission–LANGUAGE</b>
	<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,	<b>WITNESS/EXPERT INITIALS –###</b>
	<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>
	<i>LS-0002</i>
<b>INDICES</b>	<b>Consolidated Hyperlinked Index</b>
	<b>Index of Exhibits-C-#### to C-####</b>
	<i>Index of Exhibits-C-0001 to C-0023</i>
	<b>Index of Legal Authorities-RLA-### to RLA-###</b>
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
<b>OTHER APPLICATIONS</b>	<b>Name of Application–[Party]-LANGUAGE</b>
	<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>	

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**Annex B – Schedule**

#	Initial Proceedings	
	Request for Arbitration	September 6, 2023
	First Session	December 5, 2024
	Event	Date
1.	Claimants' Memorial	January 17, 2025
2.	Respondent's Request for Bifurcation	March 3, 2025 (45 days from Memorial)
3.	Claimants' Response to the Request for Bifurcation	April 2, 2025 (30 days from Respondent's Request for Bifurcation)
4.	Tribunal's Decision on Bifurcation	May 2, 2025 (30 days from the filing of Claimants' Response to the Request for Bifurcation)

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Procedural Order No. 1 -Annex B

#	<b>SCENARIO 1: BIFURCATION GRANTED</b>	
	<b>Event</b>	<b>Date</b>
1.	Respondent's Memorial on Jurisdiction	May 19, 2025  (4 months from Claimants' Memorial)
2.	Claimants' Counter-Memorial on Jurisdiction	July 21, 2025  (2 months from Respondent's Memorial on Jurisdiction)
3.	Parties' Requests for Production of Documents	August 4, 2025  (2 weeks from Claimants' Counter-Memorial on Jurisdiction)
4.	Responses and/or Objections to Requests for Production of Documents	August 18, 2025  (2 weeks)
5.	Tribunal's Decision on Objections to Requests for Production of Documents	September 1, 2025  (2 weeks)
6.	Parties' Production of Documents	September 15, 2025  (2 weeks from Tribunal's Decision)
7.	Respondent's Reply on Jurisdiction	October 15, 2025  (1 month from Parties' Production of Documents)
8.	Claimants' Rejoinder on Jurisdiction	November 17, 2025  (1 month from Reply on Jurisdiction)



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#	<b>SCENARIO 1: BIFURCATION GRANTED</b>	
	<b>Event</b>	<b>Date</b>
9.	Pre-hearing conference	December 8, 2025  (3 weeks from the last submission)
10.	Hearing on Jurisdiction	January 12, 2026  (8 weeks from the last submission)
11.	Tribunal’s Decision on Jurisdiction	April 13, 2026  (90 days after the Hearing)
(If jurisdiction is upheld)		
12.	Respondent’s Counter-Memorial on the Merits and Quantum	August 13, 2026  (4 months from the Decision on Jurisdiction)
13.	Case Management Conference	September 3, 2026  (3 weeks from the Respondent’s Counter-Memorial)
14.	Parties’ Requests for Production of Documents	October 1, 2026  (4 weeks from the Respondent’s Counter-Memorial)
15.	Parties’ Responses and/or Objections to Requests for Production of Documents	October 15, 2026  (2 weeks)
16.	Parties’ Replies to Objections to Requests for Production of Documents and Application to Tribunal for Orders for Production of Documents	October 29, 2026  (2 weeks)
17.	Tribunal’s Decision on Objections to Requests for Production of Documents	November 26, 2026  (4 weeks)
18.	Parties’ Production of Documents	December 17, 2026  (3 weeks from the Tribunal’s Decision)

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#	<b>SCENARIO 1: BIFURCATION GRANTED</b>	
	<b>Event</b>	<b>Date</b>
19.	Claimants' Reply on the Merits and Quantum	March 17, 2027  (3 months from the completion of the Parties' Production of Documents)
20.	Respondent's Rejoinder on the Merits and Quantum	July 19, 2027  (4 months from the Claimants' Reply)
21.	Parties to confirm which witnesses and experts they wish to examine	August 19, 2027  (1 month from last submission)
22.	Tribunal to indicate whether it wishes to examine any witnesses/experts not called for examination by the parties	August 26, 2027  (1 week from prior deadline)
23.	Pre-hearing organizational meeting	September 9, 2027  (1 month prior to the Hearing on Merits and Quantum)
24.	Hearing on Merits and Quantum	[Starting on October 11, 2027]  1 week with 2 additional days held in reserve (availability to be confirmed)

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#	<b>SCENARIO 2: BIFURCATION DENIED</b>	
	<b>Event</b>	<b>Date</b>
1.	Respondent's Counter-Memorial on Merits and Quantum, and Objection to Jurisdiction	August 18, 2025  (7 months from the Memorial)
2.	Case Management Conference	September 8, 2025  (3 weeks from the Respondent's Counter-Memorial)
3.	Parties' Requests for Production of Documents	September 15, 2025  (4 weeks from the Respondent's Counter-Memorial)
4.	Parties' Responses and/or Objections to Requests for Production of Documents	September 29, 2025  (2 weeks)
5.	Parties' Replies to Objections to Requests for Production of Documents and Application to Tribunal for Orders for Production of Documents	October 13, 2025  (2 weeks)
6.	Tribunal's Decision on Objections to Requests for Production of Documents	November 10, 2025  (4 weeks)
7.	Parties' Production of Documents	December 15, 2025  (5 weeks from the Tribunal's Decision)
8.	Claimants' Reply on Merits and Quantum, and Counter-Memorial on Jurisdiction	March 16, 2026  (3 months from completion of the Parties' Production of Documents)
9.	Respondent's Rejoinder on Merits and Quantum, and Reply on Jurisdiction	July 16, 2026  (4 months from Claimants' Reply)
10.	Claimant's Rejoinder on Jurisdiction	August 27, 2026  (6 weeks from Reply on Jurisdiction)

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Procedural Order No. 1 -Annex B

#	<b>SCENARIO 2: BIFURCATION DENIED</b>	
	<b>Event</b>	<b>Date</b>
11.	Parties to confirm which witnesses and experts they wish to examine	September 10, 2026  (2 weeks from last submission)
12.	Tribunal to indicate whether it wishes to examine any witnesses/experts not called for examination by the parties	September 17, 2026  (1 week)
13.	Pre-hearing organizational meeting	October 8, 2026  (3 weeks)
14.	Hearing on Jurisdiction, Merits, and Quantum [8-10 days]	[Starting on October 26, 2026]  Not earlier than 8 weeks after the last submission
15.	Parties' Post-hearing briefs	TBD
16.	Parties' Submissions on Costs	TBD
17.	Award	TBD

**Annex C- Model of Horizontal Schedule for Document Requests**

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