

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Suntech Power International Ltd.

v.

Italian Republic

(ICSID Case No. ARB/23/14)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Ms. Olufunke Adekoya SAN, President of the Tribunal
Ambassador (Ret.) David Huebner, Arbitrator
Prof. Thomas Clay, Arbitrator

Secretary of the Tribunal

Ms. Aïssatou Diop

December 6, 2024

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Introduction

The first session of the Tribunal was held on November 21, 2024, at 10:00 a.m., Washington, D.C. time by video conference via Zoom. The session was adjourned at 10:52 a.m.

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. Olufunke Adekoya SAN, President of the Tribunal
Ambassador (Ret.) David Huebner, Arbitrator
Prof. Thomas Clay, Arbitrator

ICSID Secretariat:

Ms. Aïssatou Diop, Secretary of the Tribunal

On behalf of the Suntech Power International Ltd.:

Mr. Ricardo E Ugarte, Winston & Strawn LLP

On behalf of the Italian Republic:

Avv. Giacomo Aiello, Avvocatura dello Stato
Avv. Sergio Fiorentino, Avvocatura dello Stato
Avv. Pietro Garofoli, Avvocatura dello Stato
Avv. Laura Delbono, Avvocatura dello Stato
Avv. Gaia Iappelli, Avvocatura dello Stato
Avv. Adele Berti Suman, Avvocatura dello Stato
Prof. Maria Chiara Malaguti, external legal expert, Ministry of Foreign Affairs and International Cooperation
Prof. Ludovica Chiussi Curzi, external legal expert, Avvocatura dello Stato

The Tribunal and the Parties considered the following:

- The Draft Procedural Order No. 1 circulated by the Tribunal Secretary on May 25, 2024, as updated on October 17, 2024; and
- The Parties' comments on the updated Draft Procedural Order No. 1 received on November 8, 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 presented during the first session, 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 Procedural 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 constituted on May 20, 2024, in accordance with the ICSID Convention and the ICSID Arbitration Rules.

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 May 20, 2024. Claimant objected to the appointment and sought the disqualification of Mr. Yves Derains, Respondent's co-arbitrator.

2.3. After submissions and a ruling from the non-challenged arbitrators, Mr. Derains was disqualified. Following the disqualification of arbitrator Yves Derains and the Respondent's appointment of Prof. Thomas Clay, the Tribunal was reconstituted on October 11, 2024, in accordance with the ICSID Convention and the ICSID Arbitration Rules. Prof. Clay submitted his signed declaration in accordance with ICSID Arbitration Rule 19(3)(b), a copy of which was distributed to the Parties by the ICSID Secretariat on October 11, 2024. The Parties confirmed that the Tribunal was properly reconstituted and that no party has any objection to the appointment of any Member of the Tribunal.

2.4. 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 their 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.

3.2. Under the current Schedule of Fees, each Tribunal Member receives:

3.2.1. Fees

3.2.1.1. US\$500 per hour of work performed in connection with the proceeding, including each hour spent participating in hearings, sessions and meetings.

3.2.1.2. When traveling for hearings, sessions or meetings held away from the member's city of residence, the member receives a fee of US\$250 for each hour spent traveling, either by air or by ground, to and from the location of the hearing, session or meeting.

3.2.1.3. Any work performed during travel may be charged at the hourly rate for work (US\$500) in lieu of the hourly rate for travel (US\$250).

3.2.2. Per Diem Allowance

3.2.2.1. The flat-rate *per diem* allowances in paragraphs 3.2.2.2 and 3.2.2.3 below for each day they spend away from their city of residence while traveling in connection with a proceeding.

3.2.2.2. When overnight lodging is required, the amount of the per diem allowance is US\$900 for each full day. The allowance covers all personal expenses, including lodging, tax on lodging, service charges, meals, gratuities, in-city transportation (by taxi or other means of transportation), laundry, personal communications and internet.

3.2.2.3. The amount of the *per diem* allowance for day trips not requiring overnight lodging is US\$200. The allowance covers all personal expenses, including meals, gratuities, in-city transportation (by taxi or other means of transportation), laundry, personal communications and internet.

3.2.2.4. Members are entitled to claim the US\$200 *per diem* allowance for each day of travel to and from a hearing, session or meeting when lodging is not required, and for the day of return to their city of residence. The allowance covers all personal expenses, including meals, gratuities, in-city

transportation (by taxi or other means of transportation), laundry, personal communications and internet.

3.2.3. Travel Expenses

3.2.3.1. When members are required to attend a hearing, session or meeting held away from their city of residence, they are entitled to claim reimbursement for the costs of air and ground transportation to and from the city where the hearing, session or meeting is held.

3.2.3.2. Members are authorized to travel at one class above economy class. Reimbursement will be made based on the actual expenses incurred. Receipts and the passenger copy of the transport ticket or electronic boarding pass must be submitted with the claim for reimbursement.

3.2.3.3. Members may claim reimbursement for the costs of taxis to and from the points of departure and arrival, both at the city of residence and the city where the hearing, session or meeting is held. Receipts must be submitted with the claim for reimbursement.

3.2.4. Other Reimbursable Expenses

3.2.4.1. Members are entitled to receive reimbursement for expenses reasonably incurred for the sole purpose of the proceeding. Such expenses may include, for example, courier costs and shredding of case-related documents.

3.3. Each Tribunal Member shall submit his/her claims for fees and expenses to the ICSID Secretariat on a quarterly basis.

3.4. Non-refundable expenses incurred in connection with a hearing as a result of a postponement or cancellation of the hearing shall be reimbursed.

4. Presence and Quorum
Arbitration 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, including the Award, 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, including the Award, 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 their 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.
- 5.9. The Tribunal's rulings on procedural matters shall be communicated to the parties by the Tribunal Secretary electronically in the form of a letter or email.

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,

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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 materially affect the overall schedule of the procedure as set out in the procedural timetable to be issued shortly (the “Procedural Timetable”) and (ii) the Tribunal is informed.

7. Secretary of the Tribunal

Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Ms. Aïssatou Diop, Senior 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. Aïssatou Diop
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MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.
Tel.: + 1 (202) 458-9833
Fax: + 1 (202) 522-2615
Email: adiop3@worldbank.org
Paralegal name: Mr. Anton Tugushev
Paralegal email: atugushev@worldbank.org
ICSID case address: ARB/17/8/annulment1@icsidcases.worldbank.org

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

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

8. Representation of the Parties
Arbitration Rule 2

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

For the Suntech Power International Ltd.

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Ms. Daniele Bacchiocchi, GSE
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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 April 28, 2023, ICSID informed the Parties that an advance of US\$ 150,000 from the Claimant would be necessary to cover estimated costs in the initial phase of the proceeding and requested the Claimant to pay this amount. ICSID received the Claimant's payment on May 22, 2023. Upon the constitution of the Tribunal, by letter of May 20, 2024, ICSID requested the Claimant to pay an additional US\$ 50,000 and the Respondent to pay US\$ 200,000 to cover estimated costs in the next phase of the arbitration. ICSID received the Claimant's payment on May 28, 2024, and the Respondent's on November 1, 2024.
- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of the account.

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

- 10.1. Washington, D.C. shall be the place of the proceeding.
- 10.2. The Tribunal may hold in-person hearings at any other place that it considers appropriate after consulting the Parties. The method of holding a hearing will be determined in accordance with §21.2 below.
- 10.3. The Tribunal members may deliberate at any place and by any appropriate means it considers 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.

For Documents and Communications

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

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- 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. Standard documents need only be translated in full once.

For Hearing

- 11.8. 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.
- 11.9. If a witness called for examination during the hearing is required to give evidence in a language other than English, the testimony shall be interpreted simultaneously.
- 11.10. 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.

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.
- 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.

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. By the relevant filing date, the Parties shall:

13.1.1. submit by email to the Tribunal Secretary and the opposing party an electronic version of the pleading with witness statements, expert reports and an index of all supporting documentation;¹ and

13.1.2. upload the pleading with all the supporting documentation and updated 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 in one of the following formats: OCR PDF or Word.

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 and 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 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.

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.

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 files sharing platform, in a sub-folder and including a consolidated (non-hyperlinked) index.

- 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. **Annex B sets forth the following:**

- Number and Sequence of Pleadings
- Hearings dates
- Time limits for Tribunal's decisions

15. Production of Documents

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

- 15.1. There shall be one round of document disclosure. Each Party's request for disclosure shall be submitted to the other Party in accordance with the Procedural Timetable, and shall be made in the form of a Redfern schedule. Any objections to requests, any replies to such objections, and all document production shall be made in accordance with the Procedural Timetable. Document disclosure shall be guided by the principles set out in the IBA Rules on the Taking of Evidence in International Arbitration (2020).

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.

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- 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 Claimant shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities etc. The number for each Exhibit containing a document produced by Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities etc.
- 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 below.
- 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.
- 16.8. 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.
- 16.9. An electronic copy of each demonstrative exhibit, other than 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 Tribunal, the Tribunal Secretary, the court reporter and to the interpreters as necessary by 1 p.m.

Eastern time on the eve of the day of their use, unless this deadline falls during actual hearing times, in which case, it will be 9 p.m.

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. 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 above.

17.3. Each witness statement and expert report shall be signed and dated by the witness.

18. Examination of Witnesses and Experts

Arbitration Rule 38

18.1. The examination of witnesses shall adhere to the following protocol:

18.1.1. Witnesses and experts may be cross-examined at the witness hearing by the other Party.

18.1.2. For each fact and expert witness who testifies at the witness hearing, the witness statement and expert report shall serve as their direct testimony so that no direct examination is necessary other than to confirm the veracity of the witness statement or expert report and to address any corrections that need to be made to the witness statement or expert report.

18.1.3. As a general rule the scope of cross-examination will be limited to the contents of the witness statement or expert report.

18.1.4. Each Party may conduct a re-direct examination of any fact or expert witness that has been cross-examined. The re-direct examination shall be limited to the issues that were addressed during the cross-examination.

18.1.5. A fact witness shall not be present in the room until the time he or she is cross-examined nor shall he or she read any transcript of any oral testimony prior to his or her examination, with the sole exception of a party representative who is also a fact witness. At the time of its witness notification, each Party may designate up to two representatives who are also fact witnesses and who will be exempted from this sequestration rule. Lead counsel for each Party shall be expected personally to enforce this rule.

19. Pre-Hearing Organizational Meetings

Arbitration Rule 31

19.1. A pre-hearing organizational meeting shall be held on a date in accordance with **Annex B**. It shall be held by 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 organizational meeting, 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 a 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 at a date to be determined after the second round of written submissions in accordance with **Annex B**.

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.

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- 21.2. The hearing shall be held in-person. An in-person hearing shall be held at a place to be determined in accordance with §10 above.
- 21.3. Having due regard to the views of the Parties, the specific circumstances of the case, and any relevant travel or public health/security restrictions, the Tribunal may decide to hold a hearing remotely or in a hybrid form.
- 21.4. The hearing shall take place in accordance with **Annex B**.
- 21.5. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 21.6. As a general rule, each Party has to be accorded equal time at the witness hearing.
- 21.7. Hearings will be closed to the public.

22. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

- 22.1. Audio recordings shall be made of all hearings and sessions. The recordings shall be provided to the Parties and the Tribunal Members.
- 22.2. Verbatim transcript(s) in the procedural language(s) shall be made of any hearing and session other than sessions on procedural issues. Unless otherwise agreed by the Parties or ordered by the Tribunal, the verbatim transcripts shall, if possible, be available in real-time, and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.
- 22.3. The Parties shall agree on any corrections to the transcripts within 20 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 Memorials and Statements of Costs

Convention Article 44; Arbitration Rules 51

- 23.1. Post-hearing briefs shall be filed simultaneously in accordance with the procedural calendar at **Annex B**.

24. Transparency matters

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

- 23.1. The Parties agree that Arbitration Rules 62 to 66 govern the transparency regime applicable to these proceedings, except that all memorials, exhibits, witness statements, expert reports, and hearing transcripts submitted into the record shall be deemed confidential and not to be publicly disclosed nor used for purposes other than the arbitration in order to ensure the integrity of the proceedings and ensure witnesses are able to testify in full candor. The only evidence exempted from this confidentiality restriction are exhibits that are already in the public record.

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

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54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.

On behalf of the Tribunal,

[signed]


Ms. Olufunke Adekoya SAN
President of the Tribunal
Date: December 6, 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-#####–LANGUAGE
	R-#####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S FACTUAL EXHIBITS
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	RESPONDENT’S FACTUAL EXHIBITS
	<i>R-0001-FR</i>
	<i>R-0002-SPA</i>
	Legal Authorities
RL-#####–LANGUAGE	
To be produced sequentially throughout the case.	
CLAIMANT’S LEGAL AUTHORITIES	
<i>CL-0001-ENG</i>	
<i>CL-0002-FR</i>	
RESPONDENT’S LEGAL AUTHORITIES	
<i>RL-0001-SPA</i>	
<i>RL-0002-ENG</i>	
Witness Statements	Witness Statement-Name of Witness-Name of Submission-LANGUAGE
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</i>

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

Annex B – Procedural Schedule

Procedural Step	By	Due date
First round of pleadings		
Memorial on the Merits	Claimant	December 13, 2024
Counter-Memorial on the Merits	Respondent	April 11, 2025
Document production phase		
Document production requests (maximum of 20 requests)	Parties	April 28, 2025
Objections to document requests	Parties	May 12, 2025
Responses to objections	Parties	May 26, 2025
Ruling on disputed requests	Tribunal	June 9, 2025
Production of uncontested documents and documents ordered by the Tribunal	Parties	July 28, 2025
Second round of pleadings		
Reply on the Merits	Claimant	September 19, 2025
Rejoinder on the Merits	Respondent	December 19, 2025
Case management conference “CMC”		
Parties to indicate any issues for a CMC	Parties	January 5, 2026
Tribunal to identify any additional issues for CMC	Tribunal	January 12, 2026
CMC	ALL	January 19, 2026
Procedural order on CMC	Tribunal	January 26, 2026
Witness notifications	Parties	January 30, 2026
Pre-hearing organizational meeting	ALL	February 13, 2026

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Hearing	ALL	March 16 –20, 2026
Post-hearing briefs	Parties	TBD at the conclusion of the hearing
Reply post-hearing briefs	Parties	TBD at the conclusion of the hearing
Cost submissions	Parties	TBD at the conclusion of the hearing
Award	Tribunal	In accordance with Arbitration Rule 58