

**PUBLIC VERSION**

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Ruby River Capital LLC**

**v.**

**Canada**

**(ICSID Case No. ARB/23/5)**

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**PROCEDURAL ORDER NO. 3**  
**Decision on the Respondent's Request for Suspension of the Proceeding**  
**and Other Requests**

***Members of the Tribunal***

Ms. Carole Malinvaud, President of the Tribunal

Mr. Barton Legum, Arbitrator

Prof. Zachary Douglas KC, Arbitrator

***Secretary of the Tribunal***

Mr. Benjamin Garel

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9 April 2024

**I. PROCEDURAL BACKGROUND**

1. On 14 July 2023, the Tribunal circulated a draft Procedural Order No. 1 with a draft procedural calendar to the Parties.
2. On 28 July 2023, after conferring among themselves, the Parties transmitted their comments on draft Procedural Order No.1 and their proposals for the procedural calendar.
3. On 2 August 2023, the Tribunal held its first session with the Parties, during which draft Procedural Order No. 1, including the Parties' proposed procedural calendars, were discussed with the Parties.
4. On 23 August 2023, the Tribunal issued Procedural Order No. 1 together with a procedural calendar in Annex B.
5. On 21 November 2023, the Claimant filed its Memorial on the Merits pursuant to the procedural calendar.
6. On 22 December 2023, the Respondent filed a request for suspension of the proceeding and other requests (the "**Request**") along with factual exhibits R-001 through R-007 and legal authorities RL-001 and RL-002.
7. On 23 December 2023, the Claimant requested leave to respond to the Respondent's Request and asked the Tribunal to establish a briefing schedule.
8. On the same date, the Tribunal invited the Claimant to submit its observations on the Respondent's Request and indicated that the Tribunal would inform the Parties, upon receipt of the Claimant's observations, whether it wishes to receive further observations from the Parties.
9. On 28 December 2023, the Claimant filed its observations on the Request (the "**Response**") along with factual exhibits C-413 through C-415 and legal authorities CL-143 through CL-161.
10. On 31 December 2023, the Tribunal informed the Parties of its decisions on the three prayers for relief contained in the Request, and indicated that it would provide a reasoned decision in due course. The Tribunal ruled as follows:

*The Tribunal has decided to reject the Respondent's request that the Tribunal stay the proceeding until the tribunal in TC Energy Corporation*

**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

*and TransCanada Pipelines Limited v. United States (ICSID Case No. ARB/21/63) rules on the United States' preliminary objection regarding the scope of Annex 14-C to the USMCA.*

*Further, the Tribunal is not minded to authorize a second potential request for bifurcation, or to preemptively rule on its admissibility, until such request is actually filed. However, as presently advised, the Tribunal does not welcome the prospect of sequential requests for bifurcation due to the obvious procedural inefficiencies that this would produce.*

*Lastly, the Tribunal confirms that the proceeding has not been suspended between the filing of the Respondent's Requête en suspension d'instance on December 22, 2023 and the issuance of the present letter. In accordance with the procedural timetable applicable to this proceeding, the Respondent is therefore expected to submit its Request for Bifurcation, if any, by January 5, 2024.*

11. The present procedural order sets out the reasons for the Tribunal's December 31, 2023 disposition of the Request.

## **II. PARTIES' POSITIONS**

### **A. RESPONDENT**

12. In its Request, the Respondent requests that the Tribunal: (i) suspend the proceeding until the tribunal in *TC Energy Corporation and TransCanada Pipelines Limited v. United-States* (ICSID Case ARB/21/63) rules on the United States' preliminary objection regarding the scope of Annex 14-C of the USMCA; (ii) grant leave to the Respondent to file, if it so wishes, a second request for bifurcation within 30 days of the Tribunal's rejecting its first request for bifurcation, or rejecting its bifurcated preliminary objections; and (iii) provisionally stay the proceeding until the Tribunal rules on the Respondent's Request, so as to relieve the Respondent from its obligation to file its request for bifurcation by 5 January 2024.<sup>1</sup>

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<sup>1</sup> Respondent's *Requête* dated 22 December 2023, para. 24.

**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

(i) Suspension of the proceeding

13. First, the Respondent recalls that the Claimant relies on Annex 14-C to the USMCA to establish the Tribunal's jurisdiction and argues, in particular, that while the entry into force of the USMCA has terminated the obligations prescribed in the NAFTA, Annex 14-C extends, until 1 July 2023, the temporal scope of both the dispute settlement mechanism in Section B of NAFTA's Chapter 11 and the substantial obligations prescribed in Section A.<sup>2</sup>
14. Second, the Respondent notes that both the US and Mexico are contesting a similar argument raised in two other cases – *TC Energy Corporation and TransCanada Pipelines Limited v. United States* (ICSID Case No. ARB/21/63) (“**TC Energy**”) and *Legacy Vulcan LLC v. Mexico* (ICSID Case No. ARB/19/1) (“**Legacy**”) – and that the tribunals in these cases will soon rule on this issue.<sup>3</sup>
15. Third, the Respondent submits that Article 54 of the 2022 ICSID Arbitration Rules allows tribunals to suspend proceedings upon request of one of the parties, and that even if decisions by other tribunals would not be binding, the Tribunal would benefit from having the point of view of these tribunals.<sup>4</sup> The Respondent adds that given the imminence of these tribunals' rulings, the suspension would likely last only a few months.<sup>5</sup>

(ii) Second request for bifurcation

16. The Respondent requests leave from the Tribunal to file another bifurcation request within 30 days of the dismissal of its initial bifurcation request or of the dismissal of its bifurcated preliminary objections. The Respondent submits that it has strong arguments – that are not based on the scope of Annex 14-C – to object to the Tribunal's jurisdiction, and that it will present them in its request for bifurcation. However, should this request for bifurcation be rejected, or the bifurcated objections be ultimately dismissed, the Respondent submits that it should be authorized to file a second request for bifurcation, so as to preserve an opportunity for all objections to the Tribunal's jurisdiction to be efficiently decided in a preliminary phase rather than presented and decided together with the merits.<sup>6</sup>

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<sup>2</sup> Respondent's *Requête* dated 22 December 2023, paras. 5-7.

<sup>3</sup> Respondent's *Requête* dated 22 December 2023, paras. 8-14

<sup>4</sup> Respondent's *Requête* dated 22 December 2023, paras. 15-19.

<sup>5</sup> Respondent's *Requête* dated 22 December 2023, para. 20.

<sup>6</sup> Respondent's *Requête* dated 22 December 2023, paras. 22-23.

**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

(iii) Temporary stay

17. The Respondent requests that the Tribunal temporarily stay the proceedings until it rules on requests (i) and (ii), so as to relieve the Respondent from its obligation to file a bifurcation request by the date prescribed in the procedural calendar, *i.e.* January 5, 2024.<sup>7</sup>

**B. CLAIMANT**

18. The Claimant asks the Tribunal to: (i) reject the request to suspend the proceedings;<sup>8</sup> (ii) confirm the Respondent's obligation to file any request for bifurcation within the deadline prescribed in the procedural calendar; (iii) reject the Respondent's request for the temporary stay of the proceeding; and, (iv) allocate costs in respect of the present proceedings in its favor.

(i) Suspension of the proceeding

19. The Claimant submits that the power to suspend the proceeding must be exercised "*sparingly, in limited circumstances and only for compelling reasons*"<sup>9</sup> and that the Respondent has failed to establish such compelling reasons.<sup>10</sup>
20. In particular, the Claimant notes that the Respondent's request is moot and hypothetical since the underlying jurisdictional objections have not yet been raised (and may never be raised).<sup>11</sup> The Claimant also submits that the request is based on the wrong premise that (a) the decisions by the other tribunals will be determinative of the Tribunal's decision in this proceeding,<sup>12</sup> and (b) the suspension would only last a few months.<sup>13</sup> Further, the Claimant argues that the uncertainty about the timing of the issuance of the other tribunals' decisions militates against suspension of this proceeding, since by the time the Tribunal is called to rule on its own jurisdiction, the other tribunals will have had issued their decisions.<sup>14</sup> In addition, the Claimant contends, the other tribunals' decisions will likely be made without the benefit of reviewing the *travaux préparatoires* of the USMCA (which are kept confidential by the Contracting Parties),

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<sup>7</sup> Respondent's *Requête* dated 22 December 2023, para. 24. iii.

<sup>8</sup> Claimant's Observations dated 28 December 2023, paras. 8-84.

<sup>9</sup> Claimant's Observations dated 28 December 2023, paras. 8-53.

<sup>10</sup> Claimant's Observations dated 28 December 2023, paras. 54-84.

<sup>11</sup> Claimant's Observations dated 28 December 2023, paras. 57-68.

<sup>12</sup> Claimant's Observations dated 28 December 2023, paras. 69-74.

<sup>13</sup> Claimant's Observations dated 28 December 2023, paras. 75-78.

<sup>14</sup> Claimant's Observations dated 28 December 2023, paras. 79-81.

**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

which emphasizes the uselessness of awaiting such decisions.<sup>15</sup> Lastly, the Claimant notes that the timing of the request to suspend the proceeding – submitted just after the Claimant expended “enormous efforts” to timely file its Memorial – undermines the Respondent’s contention that a suspension would promote procedural efficiency; for the Claimant, a suspension would unfairly procure the Respondent substantial additional time to prepare its Counter-Memorial.<sup>16</sup>

(ii) Second request for bifurcation

21. The Claimant submits that the Respondent’s application for permission to make a second request for bifurcation is not supported by the ICSID Arbitration Rules, the NAFTA or the Tribunal’s procedural orders in this proceeding and is legally unfounded and procedurally abusive.<sup>17</sup>
22. In particular, the Claimant notes that the time limits established in ICSID Arbitration Rules 44 and 45 are clear and admit no exception: any request for bifurcation “shall be filed within 45 days after filing the memorial on the merits.”<sup>18</sup> The Claimant recalls in that respect that the Respondent had initially argued, at the first session, that it could file a request for bifurcation outside of the time window prescribed by Rule 44, which prompted the Tribunal to invite the Parties to file submissions on that point. The Claimant further notes that the Respondent withdrew its position on the day these submissions were due and that the present request is an attempt to re-open this issue.<sup>19</sup> For the Claimant, the issue is clearly settled: neither the ICSID Convention nor the ICSID Arbitration Rules allow for any derogation to the time limits prescribed in Rule 44<sup>20</sup> and the Respondent has provided no compelling reason to depart from the procedural calendar established by the Tribunal.<sup>21</sup>

(iii) Temporary stay

23. The Claimant submits that absent any compelling reasons justifying reasonable adjustments, the procedural calendar set by the Tribunal must be followed. The Claimant recalls in that respect that the Respondent, despite having been aware for nearly a year of the other proceedings it

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<sup>15</sup> Claimant’s Observations dated 28 December 2023, paras. 82-83.

<sup>16</sup> Claimant’s Observations dated 28 December 2023, para. 84.

<sup>17</sup> Claimant’s Observations dated 28 December 2023, paras. 85-88.

<sup>18</sup> Claimant’s Observations dated 28 December 2023, paras. 89-90.

<sup>19</sup> Claimant’s Observations dated 28 December 2023, para. 91.

<sup>20</sup> Claimant’s Observations dated 28 December 2023, paras. 92-94.

<sup>21</sup> Claimant’s Observations dated 28 December 2023, paras. 95-98.

## PUBLIC VERSION

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

relies on to justify its request for a suspension, has waited until after the Claimant filed its Memorial to seek said suspension during the year-end holidays. For the Claimant, the Respondent's late attempt to overturn the procedural calendar because it had to take a position by January 5, 2024, is ill-founded and abusive, and should not be rewarded.<sup>22</sup>

### (iv) Costs

24. In its prayer for relief, the Claimant requests that, "in light of the manifestly abusive nature of the Respondent's Request, both with regard to the timing of its filing and its content", the Tribunal finds costs – "in an amount to be determined in due course" – in its favor.<sup>23</sup>

## III. TRIBUNAL'S ANALYSIS

### A. SUSPENSION OF THE PROCEEDING

25. ICSID Arbitration Rule 54(2) and (3) provides:

*(2) The Tribunal may suspend the proceeding upon the request of either party or on its own initiative, except as otherwise provided in the ICSID Administrative and Financial Regulations or these Rules.*

*(3) The Tribunal shall give the parties the opportunity to make observations before ordering a suspension pursuant to paragraph (2).*

26. It is undisputed that, under ICSID Arbitration Rule 54(2), the Tribunal has the power to suspend the proceeding, either on its own initiative, or upon the request of either party. Rule 54(2) does not provide for an automatic or unconditioned suspension of the proceeding upon a party's request: the Tribunal "may" but is not obliged to suspend the proceeding.
27. In exercising the authority granted by Rule 54(2), the Tribunal must take into account its general duties under Rule 3(1), which provides as follows: "The Tribunal and the parties shall conduct the proceeding in good faith and in an expeditious and cost-effective manner." Rule 3(2) further provides that "The Tribunal shall treat the parties equally and provide each party with a reasonable opportunity to present its case". The Tribunal thus should order suspension if doing

<sup>22</sup> Claimant's Observations dated 28 December 2023, paras. 99-105.

<sup>23</sup> Claimant's Observations dated 28 December 2023, para. 106(4).

## PUBLIC VERSION

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

so can be considered compatible with its obligation to conduct the proceedings in an expeditious, cost-effective and fair manner.

28. The Tribunal considers that the party requesting the suspension of the proceeding bears the burden of proving that the suspension is warranted by compelling reasons or good cause<sup>24</sup> that justify displacing the presumption that either party is entitled to have the proceeding conducted at a normal pace, according to the procedural timetable, efficiently and expeditiously.<sup>25</sup>
29. In making that determination and assessing the reasons advanced by the party requesting the suspension, the Tribunal has regards to the following criteria: (a) balance of convenience; (b) costs and efficiency; (c) procedural propriety; (d) fairness and prejudice.
30. The Tribunal considers that the Respondent has not established, under any of the aforementioned criteria, that a suspension of the proceedings is warranted or justified. The Tribunal's assessment is based on the following reasons.
31. First, when the procedural calendar was discussed and ultimately established in August 2023, the Respondent was aware of the existence and of the procedural status of the NAFTA cases it relies on to justify its suspension request, including the fact that a jurisdictional objection based on the temporal application of Annex 14-C to the USMCA had been raised in these cases.
32. The Respondent, however, did not raise or even mention these cases and their possible impact on the procedural timetable of the present proceedings during the discussion over the procedural calendar or after it was established. The Respondent only raised that issue on 22 December 2023, *i.e.* a month after the Claimant filed its Memorial and two weeks before the request for bifurcation was due. If the Annex 14-C temporal application issue was, as the Respondent contends, of such paramount importance and relevance to the present proceeding, the Respondent ought to have raised it, and the pending NAFTA cases dealing with it, in a timely manner.
33. Second, the Tribunal notes that the Respondent has not made any submission on the Annex 14-C temporal application issue in the *TC Energy* and *Legacy* proceedings pursuant to NAFTA

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<sup>24</sup> *S.D. Myers, Inc. v. Government of Canada* (UNCITRAL), Procedural Order No. 18 (26 February 2001), para. 16; *Ayat Nizar Raja Sumrain v. Kuwait* (ICSID Case No. ARB/19/20), Decision on Respondent's Request for Suspension of Proceedings and on the Procedure with regard to Claimants' Request for Provisional Measures, 23 April 2020, para. 8

<sup>25</sup> *S.D. Myers, Inc. v. Government of Canada* (UNCITRAL), Procedural Order No. 18 (26 February 2001), para. 8; *Cargill, Incorporated v. United Mexican States* (ICSID Case No. ARB(AF)/05/2, Award, 18 September 2009, para. 380; *William Ralph Clayton and others v. Government of Canada* (UNCITRAL), Procedural Order No. 19 (10 August 2015), para. 16.



**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

Article 1128 (as it often does in other NAFTA arbitration proceedings) and has not indicated that it intends to raise a similar objection based on the temporal application of Annex 14-C in the present proceeding.

34. Regardless of the Respondent's reasons for not doing so, the Tribunal is not convinced, in these circumstances, that the Annex 14-C temporal application issue pending before the *TC Energy* and *Legacy* tribunals is, at this junction, sufficiently relevant to the present arbitration to justify disrupting the procedural calendar by suspending the proceeding.
35. Third, the Tribunal considers that the uncertainty regarding the timing of the decisions that the Respondent is asking the Tribunal to await, compounded with the fact that it is unclear whether the Respondent intends at all to raise a jurisdictional objection based on the temporal application of Annex 14-C of the USMCA, casts further and even stronger doubts on the necessity and usefulness of a suspension of the proceeding.
36. If the decisions are issued within the timeframe indicated by the Respondent,<sup>26</sup> then the Tribunal will have access to them when it has to rule on its own jurisdiction, which makes a suspension unnecessary. If the decisions are not issued within that timeframe of "a few months", then either the Tribunal could, *sua sponte* or upon the Claimant's request, resume the proceeding, which would establish that the suspension was in vain, or the Tribunal could indeed continue the suspension as long as these decisions have not been issued (as requested by the Respondent), which would cause unreasonably long delays in the conduct of the proceeding. Either hypothesis militates against suspension.
37. Fourth, it is undisputed that the decisions in the *TC Energy* and *Legacy* proceedings would not be binding on the Tribunal, so while these rulings could theoretically be of interest (subject to paragraph 38 below), the Tribunal does not need them, let alone need to wait for them, to be in a position to make a determination regarding its jurisdiction.
38. Fifth, should the decisions in the *TC Energy* and *Legacy* proceedings be issued within the timeframe indicated by the Respondent, their usefulness, relevance and probative value would be limited since they would not reflect or benefit from the *travaux préparatoires* of the USMCA, which will be kept confidential until at least July 2024.

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<sup>26</sup> "...quelques mois tout au plus" ("a few months, at most"), Respondent's *Requête* dated 22 December 2023, para. 20.

**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

39. The Tribunal therefore finds that:

- i. The balance of convenience is in favor of allowing the proceeding to continue without a suspension. A suspension would affect to a much greater extent the Claimant and its interest in an expeditious proceeding according to the procedural calendar, than the Respondent, who has not convincingly proven that any inconvenience, let alone a greater one, would be caused by proceeding without a suspension.
- ii. Suspending the proceeding would cause delay, which would in turn affect the efficiency of the proceeding and increase its costs for a benefit that the Respondent has not established.
- iii. Absent compelling reasons, it would be procedurally improper and counter to the Tribunal's duty and objective to conduct this arbitration efficiently and effectively, to depart from the timetable that was established at the outset of the proceeding, when the Respondent was aware of, but elected not to raise, the impending decisions in *TC Energy* and *Legacy*.
- iv. It would be unfair and prejudicial to the Claimant if, by suspending the proceeding, and in addition to the resulting delays and increased costs, the Respondent was granted substantial additional time to prepare its jurisdictional objections and/or its Counter-memorial.

40. For these reasons, the Tribunal concludes that the Respondent's request for suspension of the proceeding is unwarranted and unjustified, and therefore must be rejected.

**B. SECOND REQUEST FOR BIFURCATION**

41. The Tribunal, for the following reasons, is not minded to authorize in advance a second potential request for bifurcation, or to pre-emptively rule on its admissibility, until such request is actually filed.

42. ICSID Arbitration Rule 10(1) provides:

*(1) The Tribunal, or the Secretary-General if applicable, shall fix time limits for the completion of each procedural step in the proceeding, other than time limits prescribed by the Convention or these Rules.*

43. ICSID Arbitration Rule 44(1)(a)(i) provides:

*(1) The following procedure shall apply with respect to a request for bifurcation relating to a preliminary objection:*

**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

*(a) unless the parties agree otherwise, the request for bifurcation shall be filed:*

*(i) within 45 days after filing the memorial on the merits;*

44. ICSID Arbitration Rule 45 provides, in relevant part:

*If a party does not request bifurcation of a preliminary objection within the time limits referred to in Rule 44(1)(a) or the parties confirm that they will not request bifurcation, the preliminary objection shall be joined to the merits [...].*

45. It results from a plain reading of these provisions that, absent an agreement between the Parties, the Tribunal does not have the power under the 2022 ICSID Arbitration Rules applicable to this proceeding, to allow a party to file a request for bifurcation beyond 45 days after the filing of the memorial on the merits.

46. The time limit set in Rule 44(1)(a)(i) is prescriptive and cannot, pursuant to Rule 10(1), be amended by the Tribunal.<sup>27</sup> Rule 45 makes it clear that if bifurcation is not requested within the prescribed time limit, any preliminary objection shall be joined to the merits. That, alone, would dispose of the issue.

47. The ICSID Arbitration Rules do not contemplate a possible second request for bifurcation of a preliminary objection. The Tribunal is inclined to consider, on the basis of the wording and purpose of Rule 44(1)(a)(i) and the arguments presented to date, that a second request for bifurcation would not be permissible under the 2022 ICSID Arbitration Rules. The Tribunal may not need, however, to rule on that issue. Indeed, the Tribunal is also inclined to consider that even if a second request for bifurcation were permissible, it would still need, pursuant to Rule 44(1)(a)(i), to be filed within 45 days after the filing of the memorial on the merits. Since the Respondent seeks leave to file a second request for bifurcation beyond the timeframe established in the 2022 ICSID Arbitration Rules, such request could arguably be rejected on that basis.

48. The Respondent has not established, or even attempted to establish, that a second request for bifurcation would not be subject to or governed by Rule 44(1)(a)(i) and the Tribunal sees no reason in the ICSID Arbitration Rules to consider that that is not the case. For the sake of

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<sup>27</sup> The drafting history of the 2022 ICSID Arbitration Rules clearly shows that tribunals do have discretion to determine procedural time limits, “with the exception of the time limit for filing the request for bifurcation itself”. ICSID Secretariat, “Proposals for Amendment of the ICSID Rules — Working Paper #2”, Vol. 1 (March 2019), available at <[https://icsid.worldbank.org/sites/default/files/amendments/Vol\\_1.pdf](https://icsid.worldbank.org/sites/default/files/amendments/Vol_1.pdf)>, p. 203, para. 290

**PUBLIC VERSION**

*Ruby River Capital LLC v. Canada*  
(ICSID Case No. ARB/23/5)

*Procedural Order No. 3*

*Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests*

completeness, the “inherent powers” of the Tribunal under Article 44 of the ICSID Convention cannot be relied on in that respect, since the issue of bifurcation, including with respect to timing, is covered by the ICSID Arbitration Rules.

49. In any event, the Respondent had the opportunity to either file on 5 January 2024 a request for bifurcation regarding a *ratione temporis* objection to the jurisdiction of the Tribunal, or to decide not to request bifurcation on that basis and (if so advised at the relevant time) to raise this objection in its Counter-memorial.
50. Not requesting bifurcation is certainly the prerogative of the Respondent under the procedural strategy it follows in this proceeding, but it cannot validly be invoked to justify a modification of the applicable arbitration rules or of the procedural calendar to the detriment of the Claimant.
51. On the basis of the foregoing, the Tribunal cannot authorize at this stage the Respondent's request for leave to file a second request for bifurcation. The Tribunal, due to the obvious procedural inefficiencies that this would produce, does not welcome the prospect of the Respondent filing a second request for bifurcation within 30 days of the Tribunal rejecting its first request for bifurcation, or rejecting its bifurcated preliminary objection. The Tribunal will decide on the admissibility of a second request for bifurcation if and when the Respondent files one.
52. This is without prejudice of Respondent's ability to raise a *rationae temporis* objection to the jurisdiction of the Tribunal in its Counter Memorial if its request for bifurcation or its preliminary objections are rejected.

**C. TEMPORARY STAY**

53. The Respondent's request for a temporary stay of the proceedings is premised on the fact that otherwise it would be obligated to file its request for bifurcation without knowing the Tribunal's ruling on its main request for a suspension of the proceeding.
54. The Tribunal informed the Parties that the Respondent's request for a suspension of the proceeding was rejected on 31 December 2023, *i.e.* before the due date for its request for bifurcation. There was therefore no prejudice or procedural inconvenience for the Respondent to file its request for bifurcation on 5 January 2024, and the Tribunal notes in this respect that the Respondent has indeed filed a request for bifurcation in a timely manner.

55. The Respondent's request for a temporary stay is therefore rejected.

**D. COSTS**

56. The Tribunal has noted and finds persuasive, at least on its face, the Claimant's position regarding the allocation of the costs incurred in relation to the Respondent's Request. The Tribunal also notes that the Respondent neither submitted observations on the issue of costs nor had an opportunity to respond to the Claimant's observations.

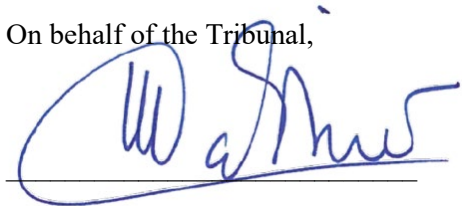
57. In these circumstances, the Tribunal reserves its decision regarding the allocation of costs incurred in relation to the Respondent's Request. The Parties will have an opportunity to address this issue in their costs submissions when these are due, including with respect to the impact of the Parties' procedural conduct on the allocation of costs.

**IV. TRIBUNAL'S DECISION**

58. In light of the foregoing, the Tribunal:

- i. REJECTS the Respondent's request for a suspension of the proceeding;
- ii. DECLINES to authorize at this stage the Respondent's request for leave to file a second request for bifurcation;
- iii. REJECTS the Respondent's request for a temporary stay of the proceeding;
- iv. RESERVES its decision regarding the costs incurred in relation to the Respondent's requests.

On behalf of the Tribunal,



Ms. Carole Malinvaud

President of the Tribunal

Date: 9 April 2024