

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**TMA Australia Pty Ltd and others**

**v.**

**Republic of the Philippines**

**(ICSID Case No. ARB/24/41)**

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**PROCEDURAL ORDER NO. 1**

***Members of the Tribunal***

Ms. Meg Kinnear, President of the Tribunal

Dr. Bernardo M. Cremades, Arbitrator

Mr. J. Christopher Thomas KC, Arbitrator

***Assistant to the Tribunal***

Dr. Randi Ayman

***Secretary of the Tribunal***

Ms. Aurélia Antonietti

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March 28, 2025

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## **Introduction**

The first session of the Tribunal was held on March 19, 2025, at 10:00 a.m. (Washington DC time), by video conference via Zoom. The session was adjourned at 12:25 p.m. (Washington DC time).

Participating in the conference were:

### **Members of the Tribunal:**

Ms. Meg Kinnear, President of the Tribunal  
Dr. Bernardo M. Cremades, Arbitrator  
Mr. J. Christopher Thomas KC, Arbitrator

### **ICSID Secretariat:**

Mr. Yuichiro Omori, Acting Secretary of the Tribunal  
Ms. Marine Chepda, ICSID Secretariat

### **Assistant to the Tribunal**

Dr. Randi Ayman

### **On behalf of the Claimants:**

Prof. Dan Sarooshi KC, Essex Court Chambers  
Mr. Paul C K Wee, Essex Court Chambers  
Mr. Raja Bose, K&L Gates LLP  
Mr. Matthew Weldon, K&L Gates LLP  
Ms. Natalie Chye, K&L Gates LLP  
Ms. Cindy Ha, K&L Gates LLP

### **On behalf of the Respondent:**

Mr. George O. Ortha II, Assistant Solicitor General  
Mr. Eric Remegio O. Panga, Assistant Solicitor General  
Mr. Thomas M. Laragan, Assistant Solicitor General  
Mr. Hermes L. Ocampo, Assistant Solicitor General  
Mrs. Nyriam Susan S. Hernandez, Assistant Solicitor General  
Mrs. Maria Hazel V. Acantilado, Assistant Solicitor General  
Mrs. Maria Victoria V. Sardillo, Assistant Solicitor General  
Mr. James L. Cundangan, Assistant Solicitor General  
Ms. Jane E. Yu, Assistant Solicitor General  
Mr. Kristan Carlos M. Cristobal, Senior State Solicitor  
Ms. Karla Monica S. Moraleda-Manabat, Senior State Solicitor  
Ms. Charina Soria, Senior State Solicitor  
Mrs. Ma. Felina C.B. Yu-Basangan, Senior State Solicitor  
Ms. Analyn G. Avila, State Solicitor  
Mr. Darniel R. Bustamante, State Solicitor

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Ms. June Abigail S. Dela Cruz, State Solicitor  
Mr. Kristoffer Gabriel L. Madrid, State Solicitor  
Ms. Maria Luisa Dominique D. Mauricio, State Solicitor  
Ms. Rowena F. Mutia, State Solicitor  
Ms. Ma. Sophia P. Obieta, State Solicitor  
Mr. Isar O. Pepito, State Solicitor  
Mr. Mark Anthony A. Asuncion, Associate Solicitor  
Mr. Richard Gabriel G. Filasol, Associate Solicitor  
Ms. Lora Althea M. Samonte, Associate Solicitor

The Tribunal and the Parties considered the following:

- The Draft Procedural Order No. 1 and No. 2 circulated by the Tribunal Secretary on January 3, 2025;
- The Parties' comments on the Draft Procedural Orders received on March 12, 2025, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree;
- A further revised Draft Procedural Order No. 1 and No. 2 circulated by the Tribunal Secretary on March 15, 2025; and,
- The Parties comments on Schedule B to Draft Procedural Order No. 1, received and circulated by the Tribunal Secretary on March 24, 2025.

A recording was made and deposited in the archives of ICSID. The recording was distributed to the Members of the Tribunal and the Parties.

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, until the Tribunal's decision on bifurcation, 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 December 16, 2024, in accordance with the ICSID Convention and the ICSID Arbitration Rules. The Parties confirmed that the Tribunal was properly constituted and that no Party has any objection to the appointment of any Member of the Tribunal.
- 2.2. The Members of the Tribunal timely submitted their signed declarations in accordance with ICSID Arbitration Rule 19(3)(b). Copies of these declarations were distributed to the Parties by the ICSID Secretariat upon acceptance of each arbitrator's appointment on November 7, November 28 and December 14, 2024.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case and that they will use best efforts to meet all time limits for orders, decisions and the Award, in accordance with ICSID Arbitration Rule 12(1).

3. Fees and Expenses of Tribunal Members

*Convention Article 60; Administrative and Financial Regulation 14; ICSID Schedule of Fees; Memorandum on Fees and Expenses*

- 3.1. The fees and expenses of each Tribunal Member shall be determined and paid in accordance with the ICSID Schedule of Fees and the Memorandum on Fees and Expenses in force at the time the fees and expenses are incurred.

4. Presence and Quorum

*Arbitration Rule 33*

- 4.1. The participation of all Members of the Tribunal by any appropriate means of communication is required at the first session, case management conferences, and deliberations, except as otherwise provided in the ICSID 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.

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- 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 ICSID Arbitration Rules 10(1) and 11(3), in accordance with ICSID Arbitration Rules 10(3) and 11(4).
- 6.2. In exercising the power to fix time limits under ICSID 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 but only if requested by either Party within five (5) days of any such decision.

7. Secretary of the Tribunal  
*Administrative and Financial Regulation 28*

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- 7.1. The Tribunal Secretary is Ms. Aurélia Antonietti, 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. Aurélia Antonietti  
ICSID  
MSN C3-300  
1818 H Street, N.W.  
Washington, D.C. 20433  
U.S.A.

[REDACTED]  
Email: [REDACTED]  
Paralegal name: Marine Chepda  
Paralegal email: [REDACTED]  
ICSID case address: [REDACTED]

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

Ms. Marine Chepda  
ICSID  
1225 Connecticut Ave. N.W.  
(World Bank C Building)  
3<sup>rd</sup> Floor  
Washington, D.C. 20036  
U.S.A.

8. Assistant to the Tribunal

- 8.1. By letter of February 20, 2025, the President explained to the Parties that she considered that it would benefit the overall cost and time efficiency of the proceeding if the Tribunal had an assistant. The President proposed, with the approval of the other Members of the Tribunal, that Dr. Randi Ayman be appointed as Assistant to the Tribunal (the “Assistant”). Dr. Ayman’s curriculum vitae was distributed to the Parties, and the Parties consented to her appointment by emails of February 28, 2025, respectively.
- 8.2. The President further explained that the Assistant would: (i) undertake only the specific tasks as are assigned to her by the President, such as the marshaling of evidence, research of specific issues of law, organization of case documents and

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limited drafting under the strict control of the President; (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. Dr. Ayman is subject to the same confidentiality obligations as Members of the Tribunal and has signed a declaration to that effect, which was sent to the Parties on March 3, 2025.
- 8.4. The Parties also agreed that the Assistant would receive: (i) actual expenses of overnight lodging and other charges when traveling to an ICSID hearing, session or meeting held away from her residence up to but not exceeding US\$900; and (ii) reimbursements for the costs of air (at one class above economy class) and ground transportation to and from the city where the hearing, session or meeting is held, as described in the Secretariat's letter dated February 20, 2025.

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 the Claimants

TMA Australia Pty Ltd, TMA Philippines  
Joint Venture Investment Vehicle Pty Ltd,  
TMA Group of Companies Ltd and others  
c/o Mr. Raja Bose  
Mr. Christopher Tung  
Mr. Rob Houston  
Ms. Cindy Ha  
K&L Gates LLP

[REDACTED]

and  
c/o Ms. Sandra Steele  
Ms. Natalie Chye  
K&L Gates LLP

[REDACTED]

and

For the Respondent

Republic of the Philippines  
c/o Mr. Menardo I. Guevarra,  
Solicitor General  
Mr. George O. Ortha II, Assistant Solicitor  
General  
Mr. Eric Remegio O. Panga, Assistant  
Solicitor General  
Mr. Thomas M. Laragan, Assistant Solicitor  
General  
Mr. Hermes L. Ocampo, Assistant Solicitor  
General  
Mrs. Nyriam Susan S. Hernandez, Assistant  
Solicitor General  
Mrs. Maria Hazel V. Acantilado, Assistant  
Solicitor General  
Mrs. Maria Victoria V. Sardillo, Assistant  
Solicitor General  
Mr. James L. Cundangan, Assistant Solicitor  
General  
Ms. Jane E. Yu, Assistant Solicitor General  
Mrs. Ma. Felina C.B. Yu-Basangan, Senior  
State Solicitor



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c/o Mr. Matthew Weldon  
Mr. Thomas Warns  
K&L Gates LLP

[REDACTED]

and  
c/o Prof. Dan Sarooshi KC  
Paul C K Wee  
Essex Court Chambers

[REDACTED]

Ms. Maria Luisa Dominique D. Mauricio,  
State Solicitor  
Office of the Solicitor General

[REDACTED]

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, ICSID informed the Parties by letter of September 25, 2024 that US\$400,000 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\$200,000. ICSID received the Claimants' payment on October 28, 2024. Upon the constitution of the Tribunal, by letter of December 16, 2024, ICSID requested that the Respondent pay US\$200,000. ICSID received the Respondent's payment on January 21, 2025.
- 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 DC, USA, shall be the place of the proceeding.

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- 11.2. The Tribunal may hold in-person hearings at any other place that it considers appropriate after consultation with the Parties. The method of holding a hearing will be determined in accordance with §22.2.
- 11.3. The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

12. Procedural Language(s), Translation and Interpretation

*Administrative and Financial Regulation 32; Arbitration Rule 7*

- 12.1. English is the procedural language of the arbitration.

***For Documents and Communications***

- 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 lengthy supporting document, unless the Tribunal orders a Party to provide a fuller or a complete translation, either at the request of a Party or on its own initiative.
- 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. Documents exchanged between the Parties in a language other than English under §16 below (Production of Documents) need not be translated.

***For Hearing***

- 12.7. The Parties will notify the Tribunal which witnesses or experts require interpretation, no later than when notifying which witnesses and experts are called for examination at the hearing and as soon as possible.
- 12.8. The testimony of a witness called for examination during the hearing given in a language other than English shall be interpreted simultaneously if possible.
- 12.9. The costs of interpretation will be paid from the advance payments made by the Parties, without prejudice to the decision of the Tribunal as to which Party shall ultimately bear those costs.

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.
- 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.
- 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 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> The format of the pleadings should be in Arial font, size 12 for the body of the text, size 10 for the quotes and size 8 for the footnotes. The pleading shall be in A4 size format, that is 8.3 x 11.7 inches.
- 14.2. By the same date, the Parties shall 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.<sup>2</sup>
- 14.3. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word).
- 14.4. 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, the pleading with which it was submitted, and shall follow the naming conventions contained in **Annex A**. All references to documents filed in the proceeding shall be bookmarked to the relevant section of the original source document.

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

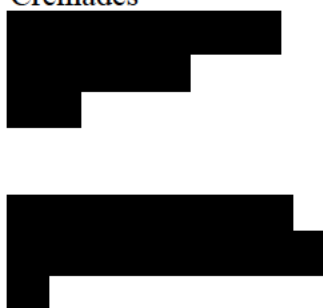
<sup>2</sup> Supporting documentation shall be uploaded as individual files, not in .zip format.

- 14.5. At the conclusion of the written phase of the proceeding, within 2 weeks after the last substantive written submission, 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.<sup>3</sup>
- 14.6. Within 1 week after the last substantive written submission the Parties shall courier a USB drive containing the entire case file (including the documents noted in the previous paragraph) to each of the Arbitrators at the addresses below:

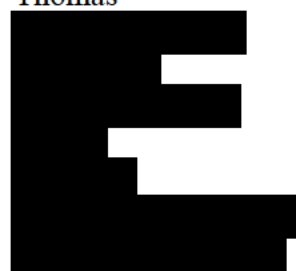
Ms. Meg Kinnear



Dr. Bernardo M.  
Cremades



Mr. J. Christopher  
Thomas



- 14.7. 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.
- 14.8. 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 procedural timetable contained in **Annex B** to this order sets forth the number and sequence of pleadings until the Tribunal's decision on bifurcation.

16. Production of Documents  
*Convention Article 43(a); Arbitration Rules 5 and 36-40, IBA Rules on Taking of Evidence*

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

- 16.1. Articles 3 and 9 of the International Bar Association Rules on the Taking of Evidence in International Arbitration (2020) shall guide the Tribunal and the Parties regarding document production in this case.
- 16.2. On a date agreed by the Parties or to be determined by the Tribunal, each Party may serve a request for production of documents on the other Party. For the avoidance of doubt, requests for production of documents may not be served before such a date. Requests shall precisely identify each document, or category of document, sought and establish its relevance. The Tribunal will not reformulate or narrow any Request that does not precisely identify the document or category of documents sought. Such request shall not be copied to the Tribunal or the Tribunal Secretary.
- 16.3. On a date agreed by the Parties or to be determined by the Tribunal, each Party shall provide the other Party with the documents in its possession, custody or control that are responsive to the other Party's request.
- 16.4. Each Party shall state in writing its responses or objections to the requested documents with reference to the objections listed in Article 9(2) of the IBA Rules, on the same date as referred to in §16.3 above.
- 16.5. On a date agreed by the Parties or to be determined by the Tribunal, the requesting Party shall file with the Tribunal its comments in writing on any response or objection made to production with the Tribunal, with a copy to the other Party (in both Word and PDF formats).
- 16.6. The Tribunal will then rule on the objections.
- 16.7. A Party shall produce those documents for which no objection is sustained by the Tribunal within 30 days of the ruling.
- 16.8. The requests, responses and objections to the requests, the reply to the responses or objections to the request, and the Tribunal's decisions referred to in this Section shall be recorded in a Redfern schedule.

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, including legal authorities, relied upon by the Parties in rebuttal shall be submitted with the Reply and Rejoinder.

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- 17.2. The documents, including exhibits and legal authorities, 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).
- 17.5. Documents shall be submitted in the following form:
- 17.5.1. 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.
- 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.

- 17.8. 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, and (ii) do not contain information not in the record.
- 17.9. 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 Tribunals, the Tribunal Secretary, to the court reporter and to the interpreters as necessary on the eve of the day of their use.
- 17.10. 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 files sharing platform, designating each with the corresponding CD-\_\_ or RD-\_\_ number.

18. Witness Statements and Expert Reports

*Convention Article 43(a); Arbitration Rule 38*

- 18.1. The applicable rules cited above shall be supplemented as set out in this section.
- 18.2. Witness statements and expert reports shall be filed together with the Parties' pleadings.
- 18.3. Neither Party shall be permitted to submit any testimony that has not been filed with the written submissions, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other Party (following the procedure outlined in §17.3).
- 18.4. Each witness statement and expert report shall be signed and dated by the witness.
- 18.5. Any person may present evidence as a witness, including a Party or its officials, officers, employees or other representatives.

19. Examination of Witnesses and Experts

*Arbitration Rule 38*

Witnesses and Experts

- 19.1. A Party intending to rely on evidence given by a witness shall file a written statement by that witness. The statement shall identify the witness, contain the evidence of the witness, and be signed and dated.



- 19.2. A witness who has filed a written statement may be called for examination at a hearing. Notice by each Party shall be given on a date agreed by the Parties or to be determined by the Tribunal. The Tribunal may also request that a witness appear for examination at the hearing.
- 19.3. The Tribunal shall determine the manner in which the examination is conducted. In principle, the direct examination is contained in the form of witness statements and expert reports, however, the Party presenting the witness may conduct a brief direct examination. The adverse Party may then cross-examine the witness. Cross-examination shall be limited to the scope of the witness' statement and their testimony or any documents that the witness could reasonably be expected to have knowledge of. Re-direct examination shall be limited to matters arising directly out of the cross-examination.
- 19.4. A witness shall be examined before the Tribunal, by the Parties, and under the control of the President. Any Member of the Tribunal may put questions to the witness.
- 19.5. A witness shall be examined in person unless the Tribunal determines that another means of examination is appropriate in the circumstances.
- 19.6. Each witness shall make the following declaration before giving evidence: "I solemnly declare upon my honor and conscience that I shall speak the truth, the whole truth, and nothing but the truth."
- 19.7. Sub-Paragraphs (1)-(5), above. shall apply, with necessary modifications, to evidence given by an expert.
- 19.8. Each expert shall make the following declaration before giving evidence: "I solemnly declare upon my honor and conscience that my statement will be in accordance with my sincere belief."
- 19.9. Witnesses of fact shall not be in the hearing room or read the transcript before giving their testimony, even if they are simultaneously acting as a representative of the Party. In order to accommodate this requirement, the Claimants shall be entitled to present one witness who is simultaneously its representative in priority to presentation of its other witnesses. Expert witnesses shall be allowed in the hearing room at any time, unless otherwise agreed by the Parties or ordered by the Tribunal.

20. Pre-Hearing Organizational Meetings  
*Arbitration Rule 31*



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- 20.1. A pre-hearing organizational meeting shall be held on a date determined by the Tribunal after consultation with the Parties. It shall comprise a teleconference or videoconference between the Tribunal, or its President, and the Parties and should address any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.
- 20.2. 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.

21. Case Management Conferences  
*Arbitration Rule 31*

- 21.1. 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 second round of written submissions on a date determined by the Tribunal after consultation with the Parties.

22. Hearings  
*Arbitration Rule 32*

- 22.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 22.2. Substantive hearings (such as a hearing on jurisdiction or on the merits) shall be held in-person, unless the Tribunal determines that another method is appropriate in the circumstances. An in-person hearing shall be held at a place to be determined in accordance with §11 above. For other types of hearing, the Tribunal shall exercise its discretion to hold such a hearing in-person, remotely or in a hybrid form, having due regard to the views of the Parties and the specific circumstances of the case.
- 22.3. The hearing shall take place on a date determined by the Tribunal after consultation with the Parties, subject to any adjustments that the Tribunal may make to it.

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- 22.4. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 22.5. The allocation of time is to be determined at the case management conference.
- 22.6. Subject to further discussion at the case management conference, the general principle of equal time for each Party will be observed for the hearing taking into account any additional time needed due to interpretation, with further time allocated to the Tribunal.

23. Recordings of Hearings and Sessions  
*Arbitration Rule 29(4)(i)*

- 23.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the Parties and the Tribunal Members.
- 23.2. 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.
- 23.3. The Parties shall agree on any corrections to the transcripts within thirty (30) days after they receive the sound recordings and the 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.

24. Post-Hearing Memorials and Statements of Costs  
*Convention Article 44; Arbitration Rules 51*

- 24.1. These matters will be discussed at a later stage in this arbitration.
- 24.2. The Tribunal shall request that each Party file a statement of its costs and a written submission on the allocation of costs before allocating the costs between the Parties.
- 24.3. Upon the conclusion of the hearing, the Tribunal shall determine at its sole discretion but after consultation with the Parties, whether Post-Hearing memorials are required. In the event that the Tribunal orders the Parties to submit Post-Hearing Memorials, the Tribunal will make directions as to filing dates, and neither Party shall be permitted to submit additional documentary evidence with its Post-Hearing Memorial.

- 24.4. On a date to be determined by the Tribunal after consultation with the Parties during the pre-hearing organizational meeting, each Party shall submit by e-mail to the Tribunal Secretary and the opposing Party an electronic version of its Statement of Costs.

25. Transparency Matters

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

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

26. Data Privacy and Cybersecurity

- 26.1. 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.
- 26.2. 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.
- 26.3. 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.

27. Amicable Dispute Settlement

- 27.1. 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 there are negotiations for settlement, the Parties shall inform the Tribunal and the proceedings will be suspended if both Parties agree to a suspension. 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).

On behalf of the Tribunal,

[signed]

Ms. Meg Kinnear  
President of the Tribunal  
Date: March 28, 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
MAIN PLEADINGS	<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>
SUPPORTING DOCUMENTATION  Exhibits	<b>C-####–LANGUAGE</b>
	<b>R-####–LANGUAGE</b>
	To be produced sequentially throughout the case.
	<b>CLAIMANT’S 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>CL-####–LANGUAGE</b>
	<b>RL-####–LANGUAGE</b>
	To be produced sequentially throughout the case.
	<b>CLAIMANT’S 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>

*TMA Australia Pty Ltd and others v. Republic of the Philippines*  
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Procedural Order No. 1 – Annex A

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>
INDICES	<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>
OTHER APPLICATIONS	<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-[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 Calendar**

<b>Description</b>	<b>Party / Tribunal</b>	<b>Date</b>
Memorial on Jurisdiction and the Merits	Claimants	23 July 2025
Request for Bifurcation	Respondent	6 September 2025 [45 days from Memorial]
Observations on Request for Bifurcation	Claimants	21 October 2025 [45 days]
Decision on Bifurcation	Tribunal	20 November 2025 [30 days, pursuant to Arbitration Rule 44(1)(e)]

The Tribunal will issue further directions concerning the procedural calendar following its decision of November 20, 2025.