

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

**Lotus Proje Akaryakıt Enerji Madencilik Telekomünikasyon İnşaat
Sanayi Taah. Ve Tic. A.Ş.**

v.

Turkmenistan

(ICSID Case No. ARB/24/13)

PROCEDURAL ORDER NO. 5

Members of the Tribunal

Ms. Meg Kinnear, President of the Tribunal

Ms. Lucy Greenwood, Arbitrator

Mr. John M. Townsend, Arbitrator

Secretary of the Tribunal

Mr. Govert Coppens

June 18, 2025

I. BACKGROUND AND PARTIES' ARGUMENTS

1. The Tribunal issued Procedural Order No. 4 (“**PO 4**”) on June 2, 2025. PO 4 gave the Claimant until June 30, 2025, to revert to the Tribunal concerning security for costs (“**SFC**”) and maintained all other filing dates in the Tribunal’s Procedural Order No. 1 dated February 27, 2025 (“**PO 1**”).¹
2. On June 9, 2025, the Claimant asked the Tribunal to reconsider PO 4 by granting a 4-week extension to file its Memorial (to July 28, 2025). The Claimant appended a proposed amended schedule (“**proposed Annex B**”) for the remainder of the arbitration and asked the Tribunal to adopt that schedule.²
3. The Claimant’s proposed Annex B provides that the Claimant’s Memorial would be filed on July 28, 2025 (not June 30, 2025) and the Respondent’s Counter-Memorial would be filed on January 5, 2026 (not November 7, 2025). The intervals for each subsequent step are the same as in PO 1 with two minor exceptions: the November 21, 2025, date for the parties to advise on the expected duration of the hearing is deleted and the Claimant has given up 1 week of its time to file its Rejoinder on Jurisdiction (from 3 weeks to 2 weeks).³
4. The basis for the Claimant’s request is that it is disproportionately prejudiced by the current schedule because it is assisting the bankruptcy estate to obtain SFC while also drafting the Memorial. The Claimant advises that this divides its limited resources and creates material limitations in accessing documents necessary for the Memorial.⁴
5. The Claimant also suggests that the current schedule creates a 30-day period of uncertainty until the Tribunal rules on whether the proposed security is adequate which would cause

¹ The relevant procedural facts are recited in detail in Procedural Order Nos. 3 and 4.

² Letter from the Claimant to the Tribunal dated June 9, 2025 (“**June 9 letter**”).

³ June 9 letter, Annex 1.

⁴ June 9 letter, para. 3.

the Claimant to expend scarce resources for no purpose if ultimately it cannot post SFC.⁵

The Claimant asks the Tribunal to adopt its proposed Annex B.⁶

6. The Respondent does not consent to the Claimant's request. It states that there has been no change of circumstances since PO 4 was issued, and that the Claimant should already have relevant documents and should have commenced drafting the Memorial. It reiterates its concern about the Claimant's ability to participate in the arbitration.⁷
7. The Respondent notes that the Tribunal is unlikely to take 30 days to review the SFC proposal and that there is no reason to expect that the SFC proposal will not comply with expectations. As a result, it does not agree that this step could cause the uncertainty anticipated by the Claimant.⁸
8. The Respondent concludes that if the extension is granted, it wants: (a) a commensurate extension of the deadline for filing its Counter-Memorial, and (b) to provide further comments on the proposed schedule.⁹

II. THE TRIBUNAL'S ANALYSIS

9. AR 11(3) gives the Tribunal discretion to extend a time limit it has fixed upon reasoned application by a party made prior to expiry of the time.
10. Having read the submissions of both Parties, the Tribunal concludes that the circumstances outlined in the Claimant's application provide a reasonable basis for the extension which will not prejudice either Party. The Claimant makes a persuasive case that the division of its limited resources could prejudice its preparation of the Memorial. Additionally, the extension of time can be accomplished with minimal change to the original schedule,

⁵ June 9 letter, paras. 4-6.

⁶ June 9 letter, para. 8.

⁷ Letter from the Respondent to the Tribunal dated June 12, 2025 ("**June 12 letter**"), pp. 1-2.

⁸ June 12 letter, pp. 1-2.

⁹ June 12 letter, p. 2.

maintaining the original time intervals between steps and preserving the hearing start date agreed upon by the Parties.

11. As a result, the Tribunal finds that it would be appropriate to extend the time for filing of the Claimant’s Memorial by 4 weeks (to July 28, 2025) and to provide the Respondent with a commensurate extension of time to file its Counter-Memorial (to January 5, 2026), as it has requested.
12. In addition, the Tribunal proposes to give the Respondent until June 27, 2025, to provide any further comments on the remaining dates in the Claimant’s proposed Annex B. Once these are received, the Tribunal proposes to issue a revised Annex B containing the full amended timetable for the proceeding.
13. Finally, the Tribunal notes that in their submission, the Parties disagree on the operation of paragraph 6 of PO 4, which repeats paragraph 86(d) of Procedural Order No. 3 dated April 28, 2025 (“**PO 3**”). For the sake of clarity, the Tribunal reiterates that the Claimant has until June 30, 2025, to revert to it in writing with sufficient details concerning the security to be obtained and the provider of such security. The Tribunal will then review the details provided concerning the security and will advise whether it is approved. If so, the Claimant will then have 30 days from the date of such approval to put the SFC in place. The Tribunal will make every effort to review the proposed SFC expeditiously and would expect this would take less than 30 days. In any event, as stated in POs 3 and 4, the 30 days to put the SFC in place only commences “once [the SFC is] approved”.

III. ORDER

14. For the foregoing reasons, the Tribunal orders as follows:
 - (a) The Memorial of the Claimant shall be filed by July 28, 2025;
 - (b) The Counter-Memorial on the Merits and Memorial on Jurisdiction of the Respondent shall be filed by January 5, 2026; and

- (c) The Respondent shall submit any comments it has on the proposed Annex B attached to the Claimant's June 9, 2025, letter by June 27, 2025.

On behalf of the Tribunal,

[signed]

Ms. Meg Kinnear
President of the Tribunal
Date: June 18, 2025