

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Nexo AG, NDS EOOD and Mirastar EOOD

v.

Republic of Bulgaria

(ICSID Case No. ARB/24/2)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Prof. Hans van Houtte, President of the Tribunal

Dr. Michael Pryles, Arbitrator

Prof. Brigitte Stern, Arbitrator

Secretary of the Tribunal

Ms. Izabela Chabinska

August 22, 2025

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Introduction

The first session of the Tribunal was held on August 4, 2025, at 7:02 a.m. EST, by video conference *via* Zoom. The session was adjourned at 9:22 a.m. EST.

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:

Prof. Hans van Houtte, President of the Tribunal
Dr. Michael Pryles, Arbitrator
Prof. Brigitte Stern, Arbitrator

ICSID Secretariat:

Ms. Izabela Chabinska, Secretary of the Tribunal

On behalf of the Claimants:

Ms. Deborah Ruff, Pillsbury Winthrop Shaw Pittman LLP
Mr. Matthew Oresman, Pillsbury Winthrop Shaw Pittman LLP
Ms. Julia Kalinina Belcher, Pillsbury Winthrop Shaw Pittman LLP
Mr. Khalil Dalal, Pillsbury Winthrop Shaw Pittman LLP (Observer)

On behalf of the Respondent:

Mr. Ivan Kondov, Ministry of Finance
Mr. Vilian Betsov, Ministry of Finance
Ms. Abby Cohen Smutny, White & Case LLP
Mr. Petr Polášek, White & Case LLP
Ms. Tanvi Dattani Vaish, White & Case LLP
Mr. Lazar Tomov, Tomov & Tomov
Ms. Sylvia Steeva, Tomov & Tomov
Ms. Yoana Yovnova, Tomov & Tomov
Ms. Kimiya Haghighi, White & Case LLP (Observer)
Mr. Mitchell Hightower, White & Case LLP (Observer)

The Tribunal and the Parties considered the following:

- The Draft Procedural Order Nos. 1 and 2 circulated by the Tribunal Secretary on June 20, 2025; and
- The Parties' comments on the Draft Procedural Order No.1 received on July 25, 2025, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree; and the Claimants' comments on the Draft Procedural Order No. 2 received on July 28, 2025.

At the first session, the Parties were invited to provide additional written submissions on procedural matters addressed at the first session as to which the Parties were unable to agree. Further to the Tribunal's invitation, the Claimants filed their submission on August 8, 2025 and the Respondent filed its submission on August 12, 2025.

Having considered the above documents, the Parties' views and additional submissions, 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. A partial timetable is attached as **Annex B** and will be updated in due time and altered in case the Tribunal would not grant bifurcation.

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 June 6, 2025, 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 Dr. Pryles' and Prof. Stern's declarations were distributed to the Parties by the ICSID Secretariat upon their acceptance of appointment on April 29 and May 2, 2024 respectively, and Prof. van Houtte's on June 6, 2025, following his acceptance of appointment on June 5, 2025.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next twenty-four (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 of the Members of the Tribunal by any appropriate means of communications is required for its sittings, including at the first session, case management conferences, hearings and deliberations, except as otherwise provided in the Arbitration Rules or unless the Parties agree otherwise.
- 4.2. Unless otherwise agreed by the Parties, Tribunal Members shall appear in person at the merits hearing, any hearing on preliminary objections, and all other hearings on issues that the Tribunal considers substantive, whether on its own initiative or upon an application of either Party.
- 4.3. For all sittings in which they are not required to appear in person, Tribunal Members may participate by any appropriate means of communication.

5. Rulings of the Tribunal

Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35

- 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 5.2. Orders, decisions and the Award may be made by any appropriate means of communication.
- 5.3. Orders, decisions and the Award may be signed electronically.
- 5.4. The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.
- 5.5. When the matter is urgent, the President may decide procedural matters alone, subject to (i) notification to the Parties that the relevant matter was decided by the President alone, and (ii) possible reconsideration of the decision by the full Tribunal at the request of a Party or another Member of the Tribunal. In case of such reconsideration, deadlines in **Annex B** shall be extended accordingly as necessary.

- 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. Whenever possible, procedural orders shall be issued after the Parties have been afforded a reasonable opportunity to make submissions to the Tribunal on the subject matter thereof.
- 5.8. The Tribunal shall use best efforts to meet time limits to render orders, decisions and the Award. If the Tribunal cannot comply with an applicable time limit, it shall advise the Parties of the special circumstances justifying the delay and the date when it anticipates rendering the order, decision or Award.
- 5.9. 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 Tribunal shall fix time limits for the completion of each procedural step in the proceeding, other than time limits prescribed by the Convention or the ICSID Arbitration Rules. In fixing time limits, the Tribunal shall consult with the Parties as far as possible. The Tribunal may delegate the power to fix time limits to its President.
- 6.2. The time limits in Articles 49, 51 and 52 of the Convention cannot be extended. An application or request filed after the expiry of such time limits shall be disregarded.
- 6.3. A time limit prescribed by the Convention or the ICSID Arbitration Rules, other than those referred to in paragraph 6.2 above, may only be extended by agreement of the Parties. A procedural step taken or document received after the expiry of such time limit shall be disregarded, unless the Parties agree otherwise or the Tribunal decides that there are special circumstances justifying the failure to meet the time limit.
- 6.4. A time limit fixed by the Tribunal may be extended by agreement of the Parties or the Tribunal upon reasoned application by either Party made prior to its expiry. A procedural step taken or document received after the expiry of such time limit shall be disregarded, unless the Parties agree otherwise or the Tribunal decides that there are special circumstances justifying the failure to meet the time limit. The Tribunal may delegate the power to extend time limits to its President.

7. Secretary of the Tribunal

Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Ms. Izabela Chabinska, 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. Izabela Chabinska
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Tel.: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Paralegal's name: Ms. Colleen Ferguson

Paralegal's email: [REDACTED]

ICSID case address: [REDACTED]

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

Ms. Izabela Chabinska
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. The Tribunal may refuse designation of additional agents, counsel, or advocates if the designation would create a non-waivable conflict of interest with one or more Members of the Arbitral Tribunal.

Procedural Order No. 1

For the Claimants

Ms. Deborah Ruff
Mr. Matthew Oresman
Ms. Julia Kalinina Belcher
Pillsbury Winthrop Shaw Pittman LLP

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Emails: [REDACTED]

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Mr. Rafael Boza
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For the Respondent

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Mr. Vilian Betsov
Ministry of Finance

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[REDACTED]

Ms. Abby Cohen Smutny
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Mr. Lazar Tomov
Ms. Sylvia Steeva
Ms. Yoana Yovnova
Tomov & Tomov

[REDACTED]

Tel.: [REDACTED]

Emails: [REDACTED]

[REDACTED]

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 make advance payments to 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 January 18, 2024, ICSID informed the Parties that USD 400,000 will 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 USD 200,000. ICSID received the Claimants' payment on February 27, 2024. Upon the constitution of the Tribunal, by letter of June 9, 2025, ICSID requested that the Respondent pay USD 200,000. ICSID received the Respondent's payment on June 20, 2025.
- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account. To allow the Parties sufficient time to process such requests, ICSID will make best efforts to provide the Parties at least thirty (30) days advance notice of the issuance of a request for further advances. In light of the fact that ICSID Administrative and Financial Regulation 16(2)(a) requires payment within thirty (30) days of such a request, the provision of advance notice means that the Parties will have at least sixty (60) days' notice before any payment due date.

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. A hearing in person may be held at any place agreed to by the Parties after consulting with the Tribunal. If the Parties do not agree on the place of a hearing, it shall be held at the seat of the Centre pursuant to Article 62 of the Convention.
- 10.3. The Tribunal Members may deliberate at any place and by any appropriate means they consider 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.
- 11.2. The Tribunal and the Secretariat shall communicate with the Parties in English.

- 11.3. Documents in another language shall be accompanied by a translation into English.
- 11.4. It is sufficient to translate only the relevant part of a supporting document, provided that the partial translation does not distort the meaning of the document. The Tribunal may order a Party to provide a fuller or a complete translation at the request of the other Party or on its own initiative, affording the first Party sufficient time to provide a fuller or a complete translation.
- 11.5. If the translation is disputed, the Tribunal may order a Party to provide a certified translation.
- 11.6. Documents exchanged between the Parties in a language other than English under paragraph 15 below (Production of Documents) need not be translated.
- 11.7. 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 (see timetable **Annex B** below) and as soon as possible.
- 11.8. The testimony of a witness called for examination during the hearing who prefers to give evidence in a language other than English shall be interpreted, simultaneously or, at the request of the Tribunal if needed to ensure accuracy, sequentially. ICSID will consult the Parties prior to the pre-hearing organizational meeting concerning the selection and identity of the interpreter(s).
- 11.9. 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.

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, unless otherwise agreed by the Parties or ordered by the Tribunal, 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 (the index to include the list of all exhibits and legal authorities);¹ and
- 13.1.1. For pleadings in relation to which the due date provided in the procedural timetable (**Annex B**) for the filing of a subsequent pleading is within two (2) weeks or less, the Parties shall make their best efforts to upload all the supporting documentation (including all exhibits and legal authorities) and an updated index to the file sharing platform created by ICSID for the purposes of this case ("Box"),² on the same day as the email filing and not later than within two (2) calendar days of the email filing.
- 13.1.2. In the event that the Parties are unable to upload all the supporting documentation to Box on the same day as the email filing and require two (2) calendar days to complete the upload, the due date of the subsequent pleading shall be extended accordingly by two (2) calendar days.
- 13.1.3. For pleadings in relation to which the due date provided in the procedural timetable (**Annex B**) for the filing of a subsequent pleading is within more than two (2) weeks, the Parties shall upload all the supporting documentation (including all exhibits and legal authorities) and an updated index to Box not later than within three (3) calendar days of the email filing.
- 13.2. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall, to the extent possible, be text searchable (i.e., OCR PDF or Word). Any spreadsheet or Excel table shall be editable and all formulae visible; data used in the creation of spreadsheets and tables should indicate its source. Audio and video recordings shall be submitted in their native format (e.g., WAV/MP3 for audio and MP4/MOV for video) together with a written transcript.
- 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

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.

the naming conventions contained in **Annex A**. Each pleading shall additionally be accompanied by a joint cumulative list of acronyms and abbreviations with accompanying definitions. Each Party shall strive to use the same acronyms and abbreviations as the other Party and the Parties shall update their list of abbreviations in subsequent submissions.

- 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 as well as the Parties' joint list of acronyms and abbreviations with accompanying definitions.³ The case file shall also include a joint hyperlinked chronological list of all documents filed by the Parties.
- 13.5. The Parties shall also courier to the ICSID Secretariat at the address indicated at paragraph 7.3 above and to each Member of the Tribunal at the addresses indicated at paragraph 13.6 below, no later than three weeks prior to the Hearing, a USB drive containing 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 and a joint hyperlinked chronological list of documents.
- 13.6. The addresses of the Tribunal Members are as follows:

Prof. Hans van Houtte



Prof. Dr. Michael Pryles



Prof. Brigitte Stern



- 13.7. 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.
- 13.8. 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.

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.

14. Number and Sequence of Pleadings – Procedural Calendar

Arbitration Rule 30

- 14.1. The proceedings shall consist of a written phase followed by an oral phase.
- 14.2. The number and sequence of pleadings, and the dates on which they are to be filed, shall be as set out in **Annex B**, unless the Tribunal, by agreement of the Parties or if it approves an application by any Party having given the other Party a reasonable opportunity to respond, or on its own initiative, amends the timetable set out in **Annex B**. Any amendment to the Procedural Timetable shall be reflected in an updated **Annex B**.
- 14.3. A Party may file unscheduled written submissions, observations or supporting documents only after obtaining leave of the Tribunal, unless the filing of such documents is provided for by the Convention or the ICSID Arbitration Rules. The Tribunal may grant such leave upon a timely and reasoned application if it finds such written submissions, observations or supporting documents are necessary in view of all relevant circumstances.

15. Production of Documents

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

- 15.1. Articles 3 and 9 of the International Bar Association Rules on the Taking of Evidence in International Arbitration (2020) may guide the Tribunal and the Parties regarding document production in this case.
- 15.2. By the date set forth in **Annex B**, each Party may serve a request for production of documents on the other Party in the form of a schedule in Word format in the form provided in **Annex C**. Such a request should precisely identify each document, or narrow and specific categories of documents sought, specifying why the documents sought are relevant to the case and material to its outcome. The Parties' requests shall not be copied to the Tribunal or the Tribunal Secretary. The Parties should make their best efforts to prevent excessive or burdensome requests for production.
- 15.3. The description of a document or category of documents shall include a date or date range, the allegation(s) to which the requested document or category of documents relate, and a reference to the pleading that contains said allegation(s).
- 15.4. With respect to each request for documents, by the date set forth in **Annex B**, each Party shall either (i) provide the other Party with the documents in its possession, custody or control that are responsive to the request, or (ii) set forth its objections to the request in the schedule provided by the requesting Party.

- 15.5. By the date set forth in **Annex B**, the requesting Party shall reply to the other Party's objections in the same production schedule and file the production schedule in Word format with the Tribunal, copying the other Party. The request for production of documents, the objections and the responses to the objections shall be contained exclusively in the schedule with respect to each category of documents. Except with prior leave from the Tribunal, the production schedule shall not be accompanied by submissions, pleadings or annexes. The Tribunal shall not reformulate the Parties' requests for production and will rule on the Parties' objections contained in the production schedules filed with the Tribunal.
- 15.6. The Tribunal will make its best efforts to rule on the objections by the date set forth in **Annex B**.
- 15.7. A Party shall produce those documents for which production is ordered by the Tribunal in accordance with the dates in **Annex B**.
- 15.8. The production schedules shall be in the format incorporated as **Annex C**.
- 15.9. Drafts, working papers or any other documentation created by an expert and any communications between the expert and a Party or its counsel, for the purposes of providing expert evidence in the arbitration shall be privileged from production and shall not be requested or produced in the arbitration.
- 15.10. Further requests for the production of documents sought by either Party, if any, that are not provided for in **Annex B**, may be made only in exceptional circumstances. If the Parties dispute whether such exceptional circumstances exist and/or whether the additionally requested documents should be produced or in what timeframe, the Tribunal shall decide.
- 15.11. Documents shall be produced electronically, either by email (if practicable in light of the number and file size of the documents produced) or *via* a file sharing site. Each Party shall organize its document production in an orderly manner, such that, for example, each document is produced as a separate electronic file, pages within document(s) are not out of order, good-quality copies are produced, and a complete copy of each document is produced together with its attachments. The documents produced by the Parties shall not be copied to the Tribunal or the Tribunal Secretary.
- 15.12. Documents produced as part of a document production and documents in the public domain which have not been submitted as exhibits are not considered part of the record.
- 15.13. The Parties' obligation to produce is continuous and applies after the conclusion of the document production phase.

- 15.14. Any objections to disclosure based on confidentiality or privilege must be particularised by the objecting Party. When ruling on confidentiality or privilege objections, the Tribunal shall apply the standard it considers appropriate.
- 15.15. The Tribunal may draw adverse inferences where a Party fails to produce a document ordered by the Tribunal without good cause.
- 15.16. If a document sought by one Party contains confidential or highly sensitive information, the producing Party shall expressly state this as a ground for objection, and the Tribunal when determining the request shall have regard to the legitimate interests of the Parties and all the relevant circumstances. For the avoidance of doubt, the State-Party's internal processes or decisions are not considered "confidential" or "highly sensitive".

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 paragraph 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.
 - 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. The other Party may request permission to submit responsive documents pursuant to the procedures set forth in this provision.
- 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 submitted by the Claimants shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities etc. The number for each exhibit containing a document submitted by the 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 paragraph 16.5.4.
- 16.5.3. Witness Statements and Expert Reports shall be numbered consecutively commencing with “CW-1” and “RW-1,” and “CE-1” and “RE-1” respectively. The Parties’ witnesses and experts shall refer to exhibits with “C-” and “R-” numbers and shall not use their own separate numbering.
- 16.5.4. Subject to paragraph 16.5.3 above, 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. If a Party has submitted a document, the other Party will not resubmit the document but will refer to the document as first submitted (unless it wishes to submit a version of the document that differs from the version submitted). Documents need not be resubmitted with witness statements or expert reports even if referred to in such statements or reports but if not resubmitted must be identified by the relevant exhibit letter and number.
- 16.8. During hearings, 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 shall be distributed by the Party intending to use it *via* an electronic mail sent to the entire case email distribution list for each Party, the Members of the Tribunal, the Tribunal Secretary, to the court reporter and to the interpreter(s) as necessary by thirty six (36) hours prior to the demonstrative exhibit’s use at the hearing. For the avoidance of doubt, this requirement is limited to demonstratives derived or extracted from exhibits, and does not apply to PowerPoint slides solely reproducing exhibits or containing arguments of counsel. For hearings, such PowerPoint slide decks shall be

distributed by each Party to the other Party *via* electronic mail and in hard copy and to the Tribunal in hard copy immediately prior to their use at the hearing.

- 16.10. Promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the Parties shall upload such demonstrative and PowerPoint slide decks to the case folder in the BOX files sharing platform, designating each with the corresponding CD-__ / CP- __ for the Claimants or RD-__ / RP-__ number for the Respondent.
- 16.11. Subject to any order of the Tribunal under paragraph 16.4 above, no documents shall be referenced at the hearings other than documents in the record or demonstratives as described above.

17. Witness Statements and Expert Reports

Convention Article 43(a); Arbitration Rule 38

- 17.1. Any person may present evidence as a witness, including a Party's officer, employee or other representative. 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 paragraph 16.3).
- 17.3. Each witness statement and expert report shall be signed and dated by the witness. Any witness statement in the language other than English shall be accompanied by a translation into English.
- 17.4. The Parties' respective counsel may meet witnesses and experts and potential witnesses and potential experts to establish the facts, and prepare the witness and expert statements and reports and the examinations.

18. Examination of Witnesses and Experts

Arbitration Rule 38

- 18.1. On the date listed in **Annex B** to this Procedural Order No. 1, each Party shall notify the other Party, with a copy to the Tribunal, which witnesses and experts of the other Party (whose written testimony has been submitted in these proceedings by that other Party) it wishes to cross-examine at the hearing.
- 18.2. Subject to paragraph 18.10.3 below, the witness statement or report of each witness or expert shall stand in lieu of the examination by the Party producing the witness or expert ("direct examination").

- 18.3. By the date stated in **Annex B**, the Tribunal will indicate to the Parties the witnesses or experts not called by the Parties whom it wishes to question, if any.
- 18.4. The fact that a Party does not call a witness or expert for cross-examination does not imply that the substance of any statement or report by such witness or expert is accepted. The Tribunal will assess the weight of the written statement taking into account the entire record and all the relevant circumstances.
- 18.5. The Party presenting testimony shall take all measures necessary to ensure the witness or expert appears at the hearing if requested by the other Party or the Tribunal. Examination by video conference may be permitted (provided a valid reason has been shown) upon the agreement of the Parties or at the discretion of the Tribunal if warranted in the circumstances after the Parties have had an opportunity to make submissions in this respect at the pre-hearing organizational meeting. If a valid reason is shown, the Tribunal may permit alternative arrangements (such as video conferencing facilities) upon consultation with the Parties.
- 18.6. If a witness or expert called for cross-examination fails to appear at the hearing or is withdrawn from availability for cross-examination, the Tribunal shall assess the weight of the written statement, taking into account the entire record and all the circumstances, and may disregard the witness's statement or the expert's report, unless the Tribunal determines (i) that the absence is justified (e.g., due to health reasons or for other good cause), or (ii) that exceptional circumstances justify consideration of the statement or report, provided the non-proffering Party has the opportunity to make submissions in this regard. Where the Tribunal decides not to disregard the witness's statement or the expert's report under subparagraphs (i) or (ii), the witness's statement or the expert's report will not be stricken from the record, and the Tribunal may attach such weight to it as it deems appropriate in the circumstances (including that the witness or expert was not cross-examined).
- 18.7. All examination shall be limited to matters addressed in the respective witness statement or expert report of the person being examined unless authorized by the Tribunal after appropriate application by one Party and after having heard the other Party.
- 18.8. Witnesses and experts shall be examined by each Party under the control of the Tribunal. Before giving evidence, witnesses shall make the declaration set out in ICSID Arbitration Rule 38(6), and experts shall make the declaration set out in ICSID Arbitration Rule 38(8).
- 18.9. Any person appearing before the Tribunal as a fact witness shall not be allowed to attend, or read the transcript of, any part of the hearing before his/her testimony unless the witness is a Party representative. This exception is limited to one (1) witness who is a Party representative. Such witness shall be designated in advance of the hearing. Expert witnesses shall be allowed in the hearing room at all times.

18.10. Unless the Tribunal directs otherwise, the procedure for examining witnesses and experts at the oral hearing(s) shall be as follows:

18.10.1. Fact witnesses shall be examined before expert witnesses. In each instance, the Claimants' witnesses shall be examined first, followed by the Respondent's witnesses.

18.10.2. The Tribunal shall have the right to examine the witnesses and experts and to interject questions during the examination by counsel. It shall ensure that each Party has the opportunity to re-examine a witness or expert with respect to questions raised by the Tribunal.

18.10.3. Although the witness statement or report of each witness or expert shall stand in lieu of their direct examination, the Party presenting the witness or expert may conduct a brief direct examination of no more than five (5) minutes, limited to an introduction of the witness or expert by name and position and corrections of any errors in their written statements or reports.

18.10.4. Thereafter, the other Party shall proceed to cross-examine the witness or expert.

18.10.5. The cross-examination shall be followed by a re-examination by the first Party if it so wishes. The scope of the re-examination shall be limited to matters that have arisen in the cross-examination.

18.10.6. The other Party may then have an opportunity to conduct a short re-cross examination in relation to any new matters or issues arising out of the re-direct examination.

18.11. Each Party shall bear the costs of appearance in respect of its own witnesses and experts, subject to the final allocation of the costs of proceedings by the Tribunal in the Award.

19. Pre-Hearing Organizational Meetings

Arbitration Rule 31

19.1. A pre-hearing organizational meeting shall be held on a date determined by the Tribunal after consultation with the Parties, no later than four (4) weeks before the hearing. It shall comprise a teleconference or video conference 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. Following the pre-hearing organizational meeting, the Tribunal shall issue a procedural order

recording the arrangements for the merits hearing to the extent not contained in this PO1.

- 19.2. 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.

20. Case Management Conferences

Arbitration Rule 31

- 20.1. The Tribunal shall convene case management conferences with the Parties, to the extent the Tribunal considers it necessary, having first consulted 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). The Tribunal may at its discretion schedule a case management conference after consultation with the Parties.

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.
- 21.2. Any hearing may be held in-person or by any other means of communication as determined by the Tribunal after consultation with the Parties. An in-person hearing shall be held at a place to be determined in accordance with paragraph 10 above.
- 21.3. Having due regard to the views of the Parties and the specific circumstances of the case, the Tribunal may decide to hold a hearing remotely or in a hybrid form.
- 21.4. The hearing shall take place on the date set out in **Annex B**.
- 21.5. The Members of the Tribunal shall reserve at least one (1) day after the hearing to determine the next steps and to hold deliberations.
- 21.6. The allocation of time at the merits hearing is to be determined at the pre-hearing organizational meeting, save that the general principle of equal time shall be observed with flexibility at the hearing(s) (taking into account any additional time required for interpretation).

- 21.7. The Parties shall raise any issues regarding significant errors of interpretation as soon as possible during the hearing.

22. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

- 22.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the Parties and the Tribunal Members. They shall not be made public.
- 22.2. Verbatim transcripts in the procedural language shall be made of any hearing and session other than sessions on procedural issues. Unless otherwise agreed by the Parties or ordered by the Tribunal, the verbatim transcripts shall, if possible, be available in real-time and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.
- 22.3. The Parties shall agree on any corrections to the transcripts within thirty (30) days of the later of the dates of the receipt of the sound recordings and transcripts indicating (i) corrections of the text in track-changes where the Parties were able to agree and (ii) portions of the text where the Parties were not able to agree, accompanied by a note setting out each Party's proposed text and supporting rationale.
- 22.4. 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 Briefs and Statements of Costs

Convention Article 44; Arbitration Rules 51

- 23.1. The Tribunal will consult with the Parties at the appropriate stage following the conclusion of the hearing, and issue directions in relation to whether, and if so by which dates, the Parties shall submit post-hearing briefs, including their length, format, any questions to be addressed and any replies to post-hearing briefs. No new factual or expert evidence may be produced with or included in the post hearing briefs, save by prior leave of the Tribunal.
- 23.2. The Tribunal shall inform the Parties when it considers the proceeding to be closed and shall then request the Parties to submit statements of costs in accordance with ICSID Arbitration Rule 51. The statements of costs shall not exceed five (5) pages and shall be limited to a concise quantification of the costs incurred and concise comments concerning their reasonableness.

24. Transparency Matters

Convention Article 48(5), Arbitration Rules 1(2), 62-66

- 24.1. It is confirmed that Article 48(5) of the ICSID Convention and Arbitration Rules 62, 63, 64, 65, and 66 apply without modification to this proceeding.

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. They acknowledge having read ICSID's "[Personal Data Privacy Notice – Proceedings](#)" ("Notice").
- 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, including witnesses and experts. 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).

27. Notice of Third-Party Funding

Arbitration Rule 14 (2022)

- 27.1. The provisions of ICSID Arbitration Rule 14 concerning third-party funding shall apply.

On behalf of the Tribunal,

[signed]

Prof. Hans van Houtte
President of the Tribunal
Date: August 22, 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	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	CL-####–LANGUAGE
	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>CW-/RW-Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</i>
	<i>CW-RW- Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
Expert Reports	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE
	<i>CE-/RE-Expert Report-Lucia Smith-Valuation-Memorial on Quantum-ENG</i>
	<i>CE-/RE- 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/EXPERT INITIALS-###

Procedural Order No. 1 – Annex A

Witness Statements, Expert Reports, Legal Opinions	<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 Timetable⁴

Event	Date	Interval (weeks)
Claimants' Submission to Respondent of the Evidence Referenced in Request for Arbitration ¶¶ 8, 30	Mon., Sept. 22, 2025	Six (6) weeks from first session (accounting for seasonal absences of Parties and counsel)
Respondent's Request for Bifurcation	Mon. Oct. 20, 2025	Four (4) weeks
Claimants' Response on Bifurcation	Mon., Nov. 17, 2025	Four (4) weeks
Respondent's Reply on Bifurcation	Mon., Dec. 1, 2025	Two (2) weeks
Claimants' Rejoinder on Bifurcation	Mon., Dec. 15, 2025	Two (2) weeks
Tribunal's Decision on Bifurcation	Tue., Jan. 20, 2026	Five (5) weeks, accounting for seasonal holidays

Claimants' submission to Respondent of the evidence referenced in Request for Arbitration paragraphs 8 and 30 shall not be copied to the Tribunal.

The Parties agree that the purpose of submitting evidence as the first step in the procedural calendar is to provide a meaningful opportunity for the Parties and the Tribunal to address the issue of bifurcation. For the avoidance of doubt, however, nothing in the above shall prevent the Claimants from adducing further evidence on the matters referenced in paragraphs 8 and 30 of its Request for Arbitration at later stages of the proceedings.

Each submission on bifurcation shall be limited to a brief of no more than twenty (20) pages (first round) and fifteen (15) pages (second round), 1.5 paragraph spacing, font Times New Roman 12, standard margins, accompanied by exhibits and legal authorities.

There shall be no hearing on bifurcation unless required by the Tribunal and possible to schedule within the above timetable in which case the hearing will take place remotely and be limited to a half day.

Scenario 1: Respondent's request for bifurcation is **granted**

Event	Date	Interval (weeks)
Respondent's Memorial on Preliminary Objections	Fri., Apr. 17, 2026	Twelve (12) weeks, accounting for holidays
Claimants' Counter-Memorial on Preliminary Objections	Fri, July 10, 2026	Twelve (12) weeks
Respondent's Reply on Preliminary Objections	Fri., Sept. 4, 2026	Eight (8) weeks
Claimants' Rejoinder on Preliminary Objections	Fri., Oct. 30, 2026	Eight (8) weeks
Parties to confirm which witnesses and experts (if any) they wish to examine	TBD – first week of Nov. 2026	

⁴ A partial timetable is attached as Annex B and will be updated in due time and altered in case the Tribunal would not grant bifurcation.

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Procedural Order No. 1 – Annex B

Event	Date	Interval (weeks)
Tribunal to indicate whether it wishes to examine any witnesses/experts not called for examination by the Parties	TBD – second week of Nov. 2026	
Pre-hearing organizational meeting	TBD – by third week of Nov. 2026	
Hearing on Preliminary Objections	TBD – first week Dec. 2026 / early 2027 (allowing for seasonal holidays)	
Tribunal’s Decision or Award on Jurisdiction	TBD – 2027	

If needed, further steps in procedural calendar to be determined in coordination with the Parties.

Scenario 2: Respondent’s request for bifurcation is **denied**

To be added.

Annex C – Redfern / Stern Schedule

Document Request No.	
A. Documents or category of documents requested	
B. Relevance and materiality: (1) para ref to submissions (2) comments	
C. Summary of objections by disputing Party to production of requested documents	
D. Reply	
E. Decision of the Tribunal	