

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Orla Mining Ltd.**

**v.**

**Republic of Panama**

**(ICSID Case No. ARB/24/27)**

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**PROCEDURAL ORDER NO. 4**  
**Hearing on Bifurcation**

***Members of the Tribunal***

Mr. Yves Derains, President of the Tribunal  
Prof. Dr. Horacio A. Grigera Naón, Arbitrator  
Mr. Ignacio Torterola, Arbitrator

***Secretary of the Tribunal***

Mr. Francisco Abriani

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7 November 2025

**I. PROCEDURAL BACKGROUND**

1. A Hearing is to be held by videoconference to discuss Respondent's Request for Bifurcation filed on **13 May 2025**.
2. On 2 October 2025, the Secretary of the Tribunal circulated a draft Procedural Order regarding the organization of the hearing.
3. On 17 October 2025, the Parties filed their respective observations on the draft Procedural Order, including their joint proposals on points of agreement, and their respective positions on points of disagreement.
4. On 28 October 2025, the Tribunal held a pre-hearing organizational meeting with the Parties.
5. The Tribunal has considered the Parties' positions and, in the present Order, sets out the procedural rules that the Parties have agreed upon and/or the Tribunal has determined will govern the conduct of the Hearing.

**II. ORGANIZATION OF THE HEARING**

**A. DATE AND FORMAT OF THE HEARING**

6. The Hearing will take place by videoconference on **9 December 2025**, to be hosted by the World Bank. The details to join the Zoom session will be shared by the ICSID Secretariat in advance of the Hearing.

**B. ORDER OF PROCEEDINGS AND SCHEDULE**

7. In order to accommodate the multiple time zones of all Hearing Participants, the Hearing will start at **10 am EST/ 4 pm CET** and will last about 4 hours.
8. The order of proceedings and structure of the Hearing will be as indicated in the agenda incorporated as **Annex A**.

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9. The Tribunal reserves discretion to adjust the Hearing schedule as needed to accomplish the prescribed agenda and to accommodate any technical disruptions.

**C. TIME ALLOCATION**

10. The Hearing will proceed on the principle that the Parties should have equal time to present their case pursuant to the Hearing Agenda (**Annex A**).
11. Time used by the Parties in oral argument shall be attributable to the Party making such argument.
12. Time used for housekeeping or to resolve technical difficulties shall be counted against the time reserved for housekeeping or against the Tribunal's reserved time, if needed.
13. The Secretary of the Tribunal shall keep account of time.
14. The Tribunal emphasizes that the Parties are expected to use the Hearing efficiently and avoid unnecessary slippage.

**D. DOCUMENTS FOR USE AT THE HEARING**

**(1) Electronic Documents**

15. The Parties and the Tribunal will use the documents that have been uploaded by the Parties to Box.
16. Prior to the Hearing, the Members of the Tribunal, the Secretary of the Tribunal and the Parties shall download the Box Documents into their own devices to have access to it offline during the remote Hearing. The court reporter will also be provided a copy of the documents via the ICSID Secretariat.

**(2) Demonstrative Exhibits**

17. The Parties may use PowerPoint or other slide presentations for their oral statements, subject to the following rule on demonstrative exhibits:

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Demonstrative exhibits shall be used in accordance with Sections 16.8, 16.9, and 16.10 of Procedural Order No. 1. A Party wishing to rely on PowerPoint slides for its opening statement shall circulate such slides to the Members of the Tribunal, the Secretary of the Tribunal, and the opposing Party at least thirty minutes before the beginning of its presentation.

**(3) Electronic Presentation of Evidence**

18. Each Party shall present demonstrative exhibits and evidence to the participants in the Hearing *via* the video platform system.
19. Hearing participants are advised to have the Box documents and any demonstrative exhibits previously distributed in accordance with Paragraph 17 *supra* downloaded to their own devices and made available for offline access.
20. Demonstrative exhibits and clean, unannotated electronic copies of documents on the record may be displayed to all Hearing participants via the Zoom videoconference platform. Any Hearing participant shall have the technical ability to display a document to all Hearing participants via Zoom, and such person need not be an active speaker. The Hearing participant displaying the document will be the only one with the ability to scroll through the document being displayed. The Parties are advised to limit their use of this function to minimize pressure on the internet bandwidth and on the stability of the connection.
21. Documents that do not form part of the record may not be presented at the Hearing.

**E. AUDIO AND VIDEO RECORDING**

22. The provision of Section 21.1 of Procedural Order No. 1 concerning audio recording apply.
23. The Secretariat shall record the Hearing, and the audio recording will be shared with the Parties and the Tribunal at the conclusion of the Hearing.
24. A video recording will also be made of the Hearing and the Parties agree that it will be shared with the Parties and the Tribunal at the conclusion of the Hearing.

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25. Except for the court reporter that will do an audio recording of the Hearing, the Tribunal and the Parties agree that the attendees will not otherwise record, *via* audio, video or screenshot the Hearing or any part of it.

**F. TRANSCRIPTION**

26. The provisions of Procedural Order No. 1, Section 21.2, concerning transcription apply, with the adjustments indicated *infra*.
27. Real-time court reporting in English and Spanish shall be made available to the Hearing participants *via* an online link connection to be provided by a court reporter. Hearing participants shall connect to the transcript by opening a link in a browser window separate from the Zoom browser window. The details (link, password) and instructions to connect to the streamed transcript shall be provided by the Secretariat to the Hearing participants before the start of the Hearing.
28. The court reporter may seek to clarify the record from time to time during the Hearing.
29. Participants may access the remote Real-time transcript on a laptop or iPad separate from the device used for Zoom.
30. In accordance with Section 21.3 of Procedural Order No. 1, the deadline for corrections to the transcript shall be 5 (five) days following the later of the dates of the receipt of the sound recordings and/or transcripts.

**G. INTERPRETATION**

31. Real-time interpretation from Spanish to English shall be made available to the Hearing participants. The details (link, password) and instructions to connect to the streamed interpretation shall be provided by the Secretariat to the Hearing participants before the start of the Hearing.

**H. VIRTUAL HEARING ARRANGEMENTS**

32. The following procedures shall be followed to ensure the good conduct of the virtual hearing:

**(1) Participants**

33. Each Party shall provide its respective List of Hearing Participants (“List of Participants”) by **1 December 2025**, using the format supplied by ICSID. Each Party shall designate those participants who will have an active speaking role (“Active Participants”) and those who will be passive attendees (“Passive Participants”).
34. For ease of identification, Participants shall join the videoconference using the naming convention indicated, namely, first and last name preceded by [C] (for participants representing the Claimant) and [R] (for participants representing the Respondent). If participants are joining from a shared conference room, the conference room connection may be identified as “[C] [R] Conference Room #” as appropriate.
35. Participants will join the videoconference through a “waiting room” managed by the Zoom Operator.
36. Access to the videoconference shall be restricted to those included in the List of Participants. Should any non-listed Participant attempt to connect to the videoconference, the Zoom Operator will alert the Secretary of the Tribunal, and the Tribunal will promptly address the matter with the Parties. All Participants in the Hearing bear an ongoing duty to warn of the presence of any other person on the videoconference.
37. Participants shall join the videoconference 30 minutes in advance of the start to facilitate the identification and to address any technical contingencies.

**(2) Connectivity**

38. The Parties shall ensure that each of their representatives connects to the videoconference through a stable internet connection offering sufficient bandwidth, and uses a camera and microphone/headset of adequate quality.

39. If available, Participants are advised to use a wired Ethernet connection instead of Wi-Fi. Participants are also encouraged to keep a smartphone or tablet, having a 4G data connection and mobile hotspot functionality available as a backup internet connection at all times during the Hearing.
40. The videoconference platform will also offer a dial-in telephone audio connection as a backup option should a Participant experience a temporary technical difficulty with a computer-online connection.

**(3) Equipment and Set Up**

41. For optimum sound quality, especially for the audio recording and the transcription, ICSID highly recommends that the main speakers use an external microphone connection such as a headset through the USB or microphone jack of the computer or laptop that they use for the Zoom videoconference. If not available, Active Participants are asked to speak close to the microphone.
42. While not indispensable, Hearing participants are advised to have at least two screens, and preferably three (it can be one device with multiple screens or a combination of devices including tablets) to facilitate simultaneous viewing of: (i) the Zoom video connection; (ii) the online real-time transcript; and (iii) offline documents.

**(4) Videoconference Etiquette**

43. Once admitted to the videoconference, and barring technical issues or other exceptional circumstances, lead counsel and Party representatives should remain connected throughout the Hearing.
44. The Parties are advised to keep the number of video connections to a minimum, and to Active Participants only. Passive Participants should join the meeting through their computer but connecting only their audio (i.e. turning their video off).
45. Participants shall use the “mute microphone” function when not speaking to reduce background noise and to avoid interference with the audio recording. The service provider

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serving as host of the videoconference shall have the ability to mute Participants if needed to avoid background noise, under the Tribunal's control.

- 46. To facilitate the accurate transcription, speakers are advised to speak at a reasonable speed and with pauses between phrases.
- 47. Participants are advised to join the Hearing from a location without background noise and with adequate lighting. Participants joining via video shall avoid sitting with a window or source of light behind them.

**(5) Break-Out Rooms**

- 48. Break-out rooms separate from the virtual Hearing Room, to be used securely by each Party and the Tribunal during breaks, will be arranged by the World Bank on the Zoom platform.
- 49. During the designated Hearing breaks, the Parties will be assigned to break-out rooms within the videoconference platform to enable to promptly reconvene all Participants following breaks.
- 50. The List of Participants shall indicate the break-out room to which Participants shall be assigned, with [C] for the Claimant's break-out room, [R] for the Respondent's break-out room.
- 51. Each Party will make its own separate arrangements for private communication within its team during the Hearing by instant messenger or other appropriate means. The Zoom built-in chat function will be disabled, except for communications with the Zoom Operator.

**III. GENERAL PROVISIONS**

**A. RESERVATION OF IMMUNITIES**

- 52. Nothing in this Order shall constitute or be considered to be a limitation upon or a waiver of the privileges and immunities provided in Section 6 of the ICSID Convention, which privileges and immunities are specifically reserved.



**B. TRANSPARENCY AND CONFIDENTIALITY**

53. In accordance with section 13 of Procedural Order No. 2, the Hearing “shall be open to the public” and “[t]he Tribunal shall establish a protocol governing public access to [the] hearing and the non-disclosure of confidential and protected information addressed during the hearing.”
54. In order to allow for the protection of confidential and protected information, the broadcasting of the Hearing on the ICSID website will be deferred until the Parties have had an opportunity to indicate the passages that need to be removed and the ICSID Secretariat has implemented the changes by editing the video recording accordingly.
55. The Parties shall have five days from the date of the receipt of the video recording from the ICSID Secretariat to indicate the passages that need to be removed. ICSID will share the edited video recording with the Parties before posting it on the ICSID website.
56. Five days before the video is made available on the ICSID website, the ICSID Secretariat will inform the Parties and announce it on its website. The edited video recording will be available for viewing on the ICSID website for one week.
57. In accordance with Section 14 of Procedural Order No. 2, ICSID shall not publish transcripts or recordings of the Hearing.

**C. DATA PRIVACY**

58. The List of Participants for the Hearing will contain personal data provided to ICSID in the context of the remote Hearing, including names and contact information, such as business email addresses and telephone numbers. This data is processed for the purpose of the legitimate interests of the Parties in resolving efficiently their dispute and, in particular, to ensure that procedural documents and Hearing arrangements are properly communicated to the Parties, their legal representatives, the Members of the Tribunal and other participants providing services for the Hearing.

For and on behalf of the Tribunal,

[Signed]

Yves Derains  
President of the Tribunal

Date: 7 November 2025

**ANNEX A**

**HEARING AGENDA**

<b>EST</b>	<b>CET</b>	<b>HEARING ON BIFURCATION, TUESDAY 9 DECEMBER 2025</b>
10:00 am	4:00 pm	Housekeeping matters (10 min)
10:10 am	4:10 pm	Respondent's opening statement (60 min)
11:10 am	5:10 pm	Claimant's opening statement (60 min)
12:10 pm	6:10 pm	Coffee break (30 min)
12:40 pm	6:40 pm	Respondent's rebuttal (30 min)
1:10 pm	7:10 pm	Claimant's surrebuttal (30 min)
1:40 pm	7:40 pm	Questions from the Tribunal, if any (20 min)
2:00 pm	8:00 pm	Hearing end