

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Veolia Propreté SAS

v.

Italian Republic

(ICSID Case No. ARB/18/20)

PROCEDURAL ORDER NO. 6

Members of the Tribunal

Prof. Eduardo Zuleta, President of the Tribunal
Ms. Judith Gill, KC, Arbitrator
Prof. Laurence Boisson de Chazournes, Arbitrator

Secretary of the Tribunal

Ms. Natalí Sequeira

30 June 2023

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I. BACKGROUND

1. From 12 May 2023 through 19 May 2023, the Tribunal and the Parties held the Hearing at the facilities of the Madrid Court of Arbitration.
2. On the last day of the Hearing, and later on 7 June 2023, the Tribunal invited the Parties to agree on (1) the deadline to review the hearing transcripts; (2) whether they intended to submit Post-Hearing Briefs, and accordingly the deadline for their submissions, as well as the format, page limit, and the number of rounds; and (3) whether the Parties agree to the Tribunal's proposal for the Tribunal to prepare a skeleton of the Position of the Parties in the award, send the skeleton to the Parties and have the Parties draft the sections corresponding to their respective positions (the "Skeleton Summaries"), without prejudice to the Tribunal adjusting or redrafting the Skeleton Summaries as it sees fit.
3. On 14 June 2023, each Party submitted its response to the Tribunal's request, as follows:
 - 3.1. *The Hearing Transcripts*: The Parties agreed to review the hearing transcripts and send the agreed edits to the court reporter by 26 June 2023.
 - 3.2. *The Post-Hearing Briefs*: The Parties agree to the submission of Post-Hearing Briefs but disagree on the following matters:
 - i. The Claimant proposes one round of Post-Hearing Briefs with a limited length of 120 pages, to be submitted on 27 October 2023.
 - ii. The Respondent proposes two rounds of Post-Hearing Briefs. The first round on 17 October 2023, of maximum 60 pages, and the second round on 14 November 2023, of maximum 40 pages.
 - 3.3. *The Skeleton Summaries*: The Parties agree to the separate but simultaneous submission of the Skeleton Summaries, but disagree on the following:
 - i. The Claimant proposes that the Skeleton Summaries are submitted with the Post-Hearing Briefs, on 27 October 2023, arguing that "*owing the parties' position to be filed after the Post-Hearing Briefs means that adjustments to the Parties' position*

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*could be made after the Post-Hearing Submissions are submitted, which would not be either acceptable or efficient”.*¹

- ii. The Respondent proposes that the Skeleton Briefs are submitted after the two rounds of Post-Hearing Briefs, arguing that this will allow the Tribunal “*to have a clearer idea of the controversial issues and will minimize the risk that in the summary of positions, parties might raise new arguments*” and “*have adequate time to complete the skeleton*”.² The Respondent further proposes that the Tribunal first prepares a skeleton of the issues in dispute, for the Parties to submit their positions pursuant to that skeleton, and referring only to (i) the transcripts, (ii) memorials, and (iii) the Post-Hearing Briefs, without making new arguments and subject to a word limit.

II. DISCUSSION

4. First, the Tribunal takes note of the Parties’ agreement regarding the date of the submission of the agreed edits to the transcripts (i.e. 26 June 2023). The Tribunal also takes note of the Parties’ communications of 27 June 2023. The Tribunal will revert with further instructions on the hearing transcripts separately.
5. Second, the Tribunal is of the view that having two rounds of Post-Hearing Briefs can provide the Parties with a valuable opportunity to briefly rebut the Post Hearing-Briefs of the opposing Party. The Tribunal is also mindful of the time required by the Parties to properly prepare the two rounds of Post Hearing Briefs and the Skeleton Summaries.
6. Third, the Tribunal will provide the Parties on or before **Friday, 21 July 2023** with a skeleton of the Position of the Parties in the award with an indicative list of the issues in dispute to the Parties, which shall guide them to frame their positions in the Skeleton Summaries. The Skeleton Summaries have the exclusive purpose of reflecting a summarized version of the position of the Parties until their last written submission and are not an

¹ Claimant’s email from Isabela Lacreta, of 14 June 2023.

² Respondent’s email from Laura Delbono, of 14 June 2023.

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opportunity to supplement, clarify or modify the position and arguments of the Parties. The Tribunal considers that they must be submitted together with the second round of Post Hearing Briefs. As the second round of Post Hearing Briefs are to contain only rebuttal of points raised in the Post Hearing-Brief of the opposing Party, there is no need to delay the Skeleton Summaries until after the second round of Post Hearing Briefs.

7. Together with the skeleton the Tribunal will provide instructions as to word limits and other similar guides for the preparation of the Skeleton Summaries.

III. DECISION

8. For the reasons outlined above, the Tribunal Directs the Parties to submit their Post-Hearing Briefs and their Skeleton Summaries, pursuant to the following timetable:

Document		Date	Extension / Page limit
1	Tribunal to provide the skeleton	21 July 2023	N/A
2	1 st Round of Post-Hearing Briefs	17 October 2023	Maximum 60 pages ³
3	2 nd Round of Post-Hearing Briefs	14 November 2023	Maximum 40 pages ⁴
4	Skeleton Summaries	14 November 2023	To be determined in the Tribunal's instructions

[Signed]

Prof. Eduardo Zuleta
President of the Tribunal
Date: 30 June 2023

³ **Text:** Font Times New Roman, size 12, line spacing 1.5. **Footnotes:** Font Times New Roman, size 10, line spacing 1. **Page size and margin:** Letter paper size and standard margins (2,5 cm top., 2,5 cm bottom., 3 cm left, 3 cm right).

⁴ See footnote 3