

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Tayeb Benabderrahmane**

**v.**

**The State of Qatar**

**(ICSID Case No. ARB/22/23)**

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**PROCEDURAL ORDER NO. 2**

***Members of the Tribunal***

Ms. Lucinda Low, President of the Tribunal

Prof. Andreas Bucher, Arbitrator

Mr. Makhdoom Ali Khan, Arbitrator

***Secretary of the Tribunal***

Dr. Jonathan Chevry

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April 11, 2023

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**Introduction**

The first session of the Tribunal was held in Washington DC, on March 27, 2023, starting at 10:00 a.m. The session was adjourned at 3:00 p.m.

An audio 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 (in person unless otherwise indicated) were:

Members of the Tribunal:

Ms. Lucinda Low, President of the Tribunal  
Prof. Andreas Bucher, Arbitrator  
Mr. Makhdoom Ali Khan, Arbitrator

ICSID Secretariat:

Dr. Jonathan Chevry, Secretary of the Tribunal  
Mr. Shay Lakhter, Paralegal  
Ms. Milena Mottola, Intern

On behalf of the Claimant:

Mr. Tayeb Benabderrahmane, Claimant  
Mr. Luke Vidal, Askolds  
Ms. Lefa Mondon, Askolds

On behalf of the Respondent:

Mr. Cameron Doley, Carter-Ruck (participating remotely)  
Mr. Lawrence Northmore-Ball, Carter-Ruck  
Mr. Sam Wordsworth KC, Essex Court Chambers

The Tribunal and the parties considered the following:

- Procedural Order No. 1 issued by the Tribunal on March 13, 2023;
- The draft procedural orders Nos. 2 and 3 circulated by the Tribunal Secretary on March 16, 2023;
- The parties' comments on these drafts received on March 23, 2023, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree; and
- The Claimant's additional letter of March 15, 2023, transmitted to the Tribunal on March 23, 2023, regarding advances on costs.

Having considered the above documents and the parties' views as presented during the first session, 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 present order includes a preliminary procedural calendar for the proceeding (the "Preliminary Procedural Calendar"), attached as **Annex B**. The remainder of the procedural calendar will be established at the appropriate time, after consulting with the parties.

1. Applicable Arbitration Rules

*Convention Article 44; Arbitration Rule 1*

1.1. On March 13, 2023, the Tribunal issued Procedural Order No. 1 on the applicable Arbitration Rules to these proceedings.

1.2. Pursuant to the Tribunal's decision in Procedural Order No. 1, and in application of Article 44 of the ICSID Convention, 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 January 26, 2022, in accordance with the ICSID Convention and the 2006 ICSID Arbitration Rules.<sup>1</sup> 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 the 2006 ICSID Arbitration Rules. Copies of these declarations were distributed to the parties by the ICSID Secretariat upon acceptance of each arbitrator's appointment on January 9, 13 and 26, 2022. During the first session, the parties indicated that they did not require the Members of the Tribunal to re-submit their declarations under the 2022 ICSID Arbitration Rules.

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<sup>1</sup> As indicated in the letter from ICSID to the parties dated January 12, 2023, the Centre referred to the 2006 ICSID Arbitration Rules further to the registration of the Claimant's Request for Arbitration based on the information contained in the Claimant's Request for Arbitration, and in the Claimant's letter of September 9, 2022, supplementing his Request for Arbitration. The Centre also indicated it would apply the 2006 ICSID Arbitration Rules for the purpose of constituting the Tribunal, and until the Tribunal had decided on the issue of the applicable rules. *See* Procedural Order No. 1, paras. 5-10.

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 of the members of the Tribunal by any appropriate means of communications is required at the first session, case management conferences, hearings and deliberations, except as otherwise provided in the 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.

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 the parties being informed that the decision has been made by the President alone and subject to reconsideration of such decision by the full Tribunal.

5.6. The Tribunal's orders and decisions shall indicate the reasons upon which they are based.

- 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 Arbitration Rules 10(1) and 11(3), in accordance with Arbitration Rules 10(3) and 11(4).
- 6.2. In exercising the power to fix time limits under 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 reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal

*Administrative and Financial Regulation 28*

- 7.1. The Tribunal Secretary is Dr. Jonathan Chevry, 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:

Dr. Jonathan Chevry  
ICSID  
MSN C3-300  
1818 H Street, N.W.  
Washington, D.C. 20433  
U.S.A.  
Tel.: + 1 (202) 473-2812  
Fax: + 1 (202) 522-2615  
Email: [jechevry@worldbank.org](mailto:jechevry@worldbank.org)  
Paralegal name: Mr. Shay Lakhter  
Paralegal email: [slakhter@worldbank.org](mailto:slakhter@worldbank.org)  
ICSID case address: [arb/22/23@icsidcases.worldbank.org](mailto:arb/22/23@icsidcases.worldbank.org)

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

Dr. Jonathan Chevry  
ICSID  
1225 Connecticut Ave. N.W.  
(World Bank C Building)  
3<sup>rd</sup> 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.

For the Claimant

Mr. Luke Vidal  
Ms. Lefa Mondon  
Askolds  
26 avenue Kléber  
75116 Paris  
France  
Tel.: +33 (0)1 77 38 80 73

Email: [REDACTED]

For the Respondent

Mr. Cameron Doley  
Mr. Lawrence Northmore-Ball  
Carter-Ruck  
The Bureau  
90 Fetter Lane  
London EC4A 1EN  
United Kingdom  
Tel. +44 (0)207 353 5005

Email: [REDACTED]

Mr. Sam Wordsworth KC  
Mr. Peter Webster  
Essex Court Chambers,  
24 Lincoln's Inn Fields  
London WC2A 3EG  
United Kingdom  
Tel. +44 (0)207 813 8000

Email: [REDACTED]

8.2. The Tribunal may refuse designation of new or 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.

9. Apportionment of Costs and Advance Payments to ICSID – Division of Advances  
*Convention Article 61(2); Administrative and Financial Regulation 15 and 16; Arbitration Rule 50*

9.1. 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.

9.2. Following registration of the Request for arbitration, by letter of September 15, 2022, ICSID requested that the Claimant pay US\$150,000 to cover the initial costs of the proceeding through the first session. ICSID received the Claimant's payment on November 4, 2022. Upon the constitution of the Tribunal, by letter of January 27, 2023, ICSID requested that the parties pay US\$400,000 to defray the estimated costs of the subsequent phase of the proceeding. Claimant paid its share of this requested advance on costs on February 24, 2023.

9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

10. Place of Proceeding and Hearings  
*Convention Articles 62 and 63; Arbitration Rule 32*

10.1. Paris, France shall be the place of the proceeding.

10.2. 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 §20.2.

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 the English language.



- 11.3. Documents filed in any other language must be accompanied by a translation into English other than in exceptional circumstances (for instance, when a document is filed on an emergency basis), and provided that a translation is subsequently filed no later than three business days after the filing of the original document.
- 11.4. It is sufficient to translate only the relevant part of a supporting document, unless the Tribunal orders a party to provide a fuller or a complete translation.
- 11.5. Translations need not be certified, unless the translation is disputed and the Tribunal orders a party to provide a certified translation.
- 11.6. Documents exchanged between the parties in a language other than English under §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 and as soon as possible.
- 11.8. The testimony of a witness called for examination during the hearing is required to give evidence in a language other than in the English shall be interpreted, simultaneously if possible.
- 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. Unless otherwise agreed by the parties or ordered by the Tribunal, 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 (simultaneously) and the Tribunal. This shall also be the applicable communication protocol whenever there is a requirement that the parties indicate to the Tribunal on the same deadline their availability, timing, preferences or position regarding procedural matters.

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, the parties shall:

13.1.1. 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; and

13.1.2. 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.

13.2. Any filing date coinciding with a Friday, Saturday, Sunday, or public or religious holiday observed in Qatar, France or the United Kingdom shall be deemed to fall on the next day which is a business day in all those countries.

13.3. On the third business day following the electronic filing, the parties shall courier to each Member of the Tribunal at the addresses indicated at § 13.4 below:

13.3.1. one hard copy of the entire submission including the pleading,<sup>2</sup> the witness statements and expert reports (but excluding factual exhibits and legal authorities); and

13.3.1. one USB drive with a full copy of the entire submission, including the pleading, the witness statements, expert reports, documents, and legal authorities.

13.4. The addresses of the Tribunal Members are as follows:

Ms. Lucinda Low



Prof. Andreas Bucher



Mr. Makhdoom Ali Khan



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<sup>2</sup> The format for these hard copies shall be as follows:  
- for Ms. Low and Mr. Khan: bundles, double-sided, in A5 format; and  
- for Prof. Bucher: bundles, double-sided, in A4 format.

- 13.5. Also, on the third business day following the electronic filing, the parties shall courier to the opposing party at the addresses indicated at §8.1 above:
- 13.5.1. one hard copy in A5 format of the entire submission including the pleading, the witness statements and expert reports (but excluding factual exhibits and legal authorities); and
  - 13.5.2. one minimum USB drive with a full copy of the entire submission, including the pleading, the witness statements, expert reports, documents, and legal authorities.
- 13.6. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (*i.e.*, OCR PDF or Word).
- 13.7. 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 the naming conventions contained in **Annex A**).
- 13.8. 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.<sup>3</sup>
- 13.9. 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.
- 13.10. A filing shall be deemed timely if sent by a party by midnight, Washington, D.C. time, on the relevant date.

14. Number and Sequence of Pleadings – Procedural Calendar  
*Arbitration Rules 30 and 42-45*

- 14.1. The parties shall submit their written pleadings in accordance with the Preliminary Procedural Calendar and the procedural calendar for the remainder of the

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

proceeding (as completed in due course) (the “Procedural Calendar”) and with the rules set out below.

15. Production of Documents

*Convention Article 43(a); Arbitration Rules 5 and 36-37*

- 15.1. Articles 3 and 9 of the International Bar Association Rules on the Taking of Evidence in International Arbitration (2020) (the “IBA Rules”) shall provide guidance for the Tribunal and the parties in this proceeding.
- 15.2. On or before the date(s) mentioned in the Preliminary Procedural Calendar, and the Procedural Calendar, each party may serve a request for production of documents on the other party. Every request for production of documents shall precisely identify each document, or category of documents, sought and establish its relevance. Such a request shall not be copied to the Tribunal or the Tribunal Secretary.
- 15.3. On or before the date(s) mentioned in the Preliminary Procedural Calendar and the Procedural Calendar, 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, other than documents in relation to which there is an objection to production.
- 15.4. 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(s) as referred to in §15.3 above.
- 15.5. On or before the date(s) mentioned in the Preliminary Procedural Calendar and the Procedural Calendar, the requesting party shall file 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).
- 15.6. The Tribunal will make its best efforts to rule on any outstanding requests by the date mentioned in the Preliminary Procedural Calendar and the Procedural Calendar.
- 15.7. A party shall produce those documents for which a request to produce is upheld by the Tribunal by the dates for production mentioned in the Preliminary Procedural Calendar and the Procedural Calendar.
- 15.8. The request, responses or objections to the request, the reply to the responses or objections to the request, and the Tribunal’s decisions referred to in the present §15 shall be recorded in a schedule in the format of the table provided at **Annex C**.

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 §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.
- 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 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;
  - 16.5.2. exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-001” and “R-001,” 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 §16.5.4;
  - 16.5.3. a party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively; and
  - 16.5.4. 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. Documents need not be resubmitted with witness statements even if referred to in such statements.
- 16.8. The parties may use an outline, 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, 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 at a time to be decided at the pre-hearing organizational meeting.
- 16.10. 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 filesharing platform, designating each with the corresponding CD-\_\_ or RD-\_\_ number.

17. Witness Statements and Expert Reports

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

- 17.1. Witness statements and expert reports shall be filed together with the parties' written 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 §16.3).
- 17.3. Each witness statement and expert report shall be signed and dated by the witness.

18. Examination of Witnesses and Experts

*Arbitration Rule 38*

- 18.1. Within the time limits to be agreed upon by the parties or directed by the Tribunal, each party shall identify the factual witnesses and expert witnesses whose written

testimony has been advanced with the opposing party's written submissions and whom it intends to cross-examine. Shortly after the parties' notifications, the Tribunal will indicate the factual or expert witnesses not called by the parties that it wishes to question, if any.

- 18.2. The party whose factual or expert witness has thus been called for cross-examination or to be questioned by the Tribunal must make the factual or expert witness available for the hearing. Each factual or expert witness shall appear in person before the Tribunal. If warranted by justifiable circumstances, the Tribunal may authorize an alternate method of cross-examining a witness, such as by live video-link.
- 18.3. Witnesses and experts shall be examined by each party under the control of the Tribunal. Before giving evidence, factual witnesses shall make the declaration set out in ICSID Arbitration Rule 38(6) and expert witnesses shall make the declaration set out in ICSID Arbitration Rule 38(8). The Tribunal may examine the factual or expert witness at any time during the oral procedure.
- 18.4. Direct examination is given in the form of witness statements and expert reports. However, the party presenting the witness may conduct a brief direct examination of no more than 15 minutes in respect of a factual witness (or 30 minutes in respect of an expert witness) to introduce the witness, confirm the accuracy and completeness of the witness's written statement(s) or expert report(s), or to offer any corrections or clarifications that may be necessary to prevent a potentially avoidable misunderstanding of that witness's written testimony. No new testimony or evidence may be presented during this brief direct examination without prior leave from the Tribunal.
- 18.5. Unless the parties and the Tribunal agree otherwise, factual witnesses shall not be allowed in the hearing room before giving their oral evidence. Expert witnesses may be in the hearing room at any time.
- 18.6. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts and assist in the preparation of their witness testimony.
- 18.7. Other matters regarding hearings shall be addressed at the pre-hearing organizational meeting.

19. Case Management Conferences  
*Arbitration Rule 31*

- 19.1. A case management conference for hearing organization shall be held approximately four weeks before the Hearing. It may be held by way of teleconference or videoconference between the Tribunal, or its President, and the

parties and address any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.

- 19.2. At a date to be determined by the Tribunal, and in any event no later than the date of the case management conference for hearing organization, 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.
- 19.3. The Tribunal may hold further case management conferences should any need arise.

## 20. Hearings

### *Arbitration Rule 32*

- 20.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 20.2. The hearing may be held in-person or (if the parties agree) 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 §10 above.
- 20.3. The Members of the Tribunal shall reserve at least one day within 14 days of the last day of the hearing to determine the next steps and to hold deliberations.

## 21. Recordings of Hearings and Sessions

### *Arbitration Rule 29(4)(i)*

- 21.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the parties and the Tribunal Members.
- 21.2. 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.
- 21.3. The parties shall agree on any corrections to the transcripts within a reasonable time, to be agreed during the last day of the hearing. 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.

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

- 22.1. The schedule of Post-Hearing Memorials (if any) and Statements of Costs shall be discussed by the Tribunal and the parties, and if possible, decided by the Tribunal, at the Hearing.

23. Transparency matters  
*Convention Article 48(5), Arbitration Rules 62-66*

- 23.1. The parties shall comply with the transparency regime established in Arbitration Rules 62 to 66.

24. Data Privacy and Cybersecurity

- 24.1. 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.
- 24.2. 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.
- 24.3. 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.

25. Amicable Dispute Settlement

- 25.1. 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).

26. Notice of Third-Party Funding  
*Arbitration Rule 14*

- 26.1. Within 21 days following the issuance of this Order, the Claimant shall file a Notice disclosing the name and address of any non-party (including natural persons or any form of legal entity) from which the Claimant (or his affiliates or related parties), directly or indirectly, may have received prior to, or since the beginning of this arbitration, any form of financial assistance or funds for the pursuit or defense of the proceeding through a donation or grant, or loan, or by any other means, whether in return for remuneration dependent on the outcome of the proceeding or otherwise. If the non-party providing such funding is a juridical person, or any form of legal entity, the notice shall include the names of such persons and entities and, if applicable, the persons and entities that own and control that juridical person or legal entity.
- 26.2. In accordance with Arbitration Rule 14(2), the Claimant shall immediately notify the Secretary General, and the Tribunal, of further information or any change to the information provided pursuant to §26.1.
- 26.3. Notwithstanding the specific directions provided in §26.1 and 26.2 above, Arbitration Rule 14 shall apply.

On behalf of the Tribunal,

[signed]

Lucinda Low  
President of the Tribunal  
Date: April 11, 2023

**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. 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</b>
	<i>Memorial on Jurisdiction</i>
	<i>Counter-Memorial on the Merits and Memorial on Jurisdiction</i>
	<i>Reply on Annulment</i>
	<i>Rejoinder on Quantum</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-001-ENG</i>
	<i>C-002-FR</i>
	<b>RESPONDENT’S FACTUAL EXHIBITS</b>
	<i>R-001-FR</i>
<i>R-002-ENG</i>	
Legal Authorities	<b>CL-001###-LANGUAGE</b>
	<b>RL-001###-LANGUAGE</b>
	To be produced sequentially throughout the case.
	<b>CLAIMANT’S LEGAL AUTHORITIES</b>
	<i>CL-001-ENG</i>
	<i>CL-002-FR</i>
	<b>RESPONDENT’S LEGAL AUTHORITIES</b>
	<i>RL-001-FR</i>
<i>RL-002-ENG</i>	
Witness Statements	<b>Witness Statement-Name of Witness-Name of Submission-LANGUAGE</b>
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-FR</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>

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	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]-FR</i>
Exhibits to Witness Statements, Expert Reports, Legal Opinions	<b>WITNESS/EXPERT INITIALS-###</b>
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i>
	<i>MJ-001</i>
	<i>MJ-002</i>
	<i>For exhibits filed with the Legal Opinion of [Tom Kaine]</i>
	<i>TK-001</i>
	<i>TK-002</i>
	<i>For exhibits filed with the Expert Report of [Lucia Smith]</i>
	<i>LS-001</i>
	<i>LS-002</i>
<b>INDICES</b>	<b>Consolidated Index</b>
	<b>Index of Exhibits-C-### to C-###</b>
	<i>Index of Exhibits-C-001 to C-023</i>
	<b>Index of Legal Authorities-RLA-### to RLA-###</b>
	<i>Index of Legal Authorities-RLA-001 to RLA-023</i>
<b>OTHER APPLICATIONS</b>	<b>Name of Application-[Party]-LANGUAGE</b>
	<i>Preliminary Objections under Rule 41(5)</i>
	<i>Request for Bifurcation</i>
	<i>Request for Provisional Measures-[Respondent]</i>
	<i>Request for Production of Documents-[Claimant]</i>
	<i>Request for Stay of Enforcement</i>
	<i>Request for Discontinuance-[Claimant]</i>
	<i>Post-Hearing Brief-[Claimant]</i>
	<i>Costs Submissions-[Respondent]</i>
<i>Observations to Request for [XX]-[Claimant]</i>	

**ANNEX B**

**PRELIMINARY PROCEDURAL CALENDAR**

Step	Date
<b>Introductory Phases</b>	
Procedural Order No. 1	March 13, 2023
First Session	March 27, 2023
Procedural Order No. 2	April 11, 2023
<b>Proceeding on Jurisdiction and the Merits</b>	
<b>Preliminary Applications</b> <p>The parties will be at liberty to file such applications for the production of documents as they may deem appropriate, and the Tribunal will pass such orders on these applications as it determines to be warranted after providing to the other party an opportunity to respond. Any such application that a party deems appropriate to file at this stage of the proceeding shall be filed within 30 days of the issuance of Procedural Order No. 2. Such filing will be without prejudice to any subsequent applications permitted under the Rules or by the Procedural Calendar once adopted.</p>	
Claimant’s Memorial	120 days from the date when the parties were directed to comply with a decision of the Tribunal on an application referred to above and absent any such application and decision, 120 days from the issuance of Procedural Order No. 2.
Respondent’s Counter-Memorial  – OR –  Respondent’s Request for Bifurcation	120 days from the Claimant’s Memorial  – OR –  No later than 45 days following the filing of Claimant’s Memorial for any such request in relation to a preliminary objection.

**ANNEX C**

**DOCUMENT PRODUCTION FORMAT**

<b>Document Request Number</b>	
<b>Documents or Category of Documents Requested</b>	
<b>Relevance and Materiality according to the Requesting Party</b>	
<b>Objections to Document Request</b>	
<b>Reply to Objections to Document Request</b>	
<b>Decision of the Tribunal</b>	