

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Suffolk (Mauritius) Limited, Mansfield (Mauritius) Limited and Silver Point Mauritius

v.

Portuguese Republic

(ICSID Case No. ARB/22/28)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Mr. Jeremy K. Sharpe, President of the Tribunal

Prof. Dr. Stephan Schill, Arbitrator

Prof. Brigitte Stern, Arbitrator

Secretary of the Tribunal

Ms. Ella Rosenberg

July 13, 2023

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Introduction

The first session of the Tribunal was held on June 27, 2023, at 9 a.m. EST / 3 p.m. CEST, by video conference. The session was adjourned at 10:36 a.m. EST / 4:36 pm CEST.

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:

Mr. Jeremy K. Sharpe, President of the Tribunal
Prof. Dr. Stephan Schill, Arbitrator
Prof. Brigitte Stern, Arbitrator

ICSID Secretariat:

Ms. Ella Rosenberg, Secretary of the Tribunal
Mr. Pierre Nosewicz, ICSID

On behalf of the Claimants:

Mr. Stephen Fietta KC	Fietta LLP
Mr. Ashique Rahman	Fietta LLP
Ms. Laura Rees-Evans	Fietta LLP
Ms. Lea Christopher	Fietta LLP

Mr. Diogo Duarte de Campos	PLMJ
Mr. Tiago Duarte	PLMJ

On behalf of the Respondent:

Mr. Miguel de Almada	Cuatrecasas
Mr. Lourenço Vilhena de Freitas	Cuatrecasas
Mr. Manuel Requicha Ferreira	Cuatrecasas
Mr. Miguel Pereira da Silva	Cuatrecasas
Ms. Carolina Salazar Leite	Cuatrecasas

The Tribunal and the parties considered the following:

- The Draft Procedural Order circulated by the Tribunal Secretary on 23 May 2023; and
- The parties' comments on the Draft Procedural Order received on 21 June 2023, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

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Having considered the above documents and the parties' views, 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 timetable is attached as **Annex B**.

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 May 4, 2023, 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 these declarations were distributed to the parties by the ICSID Secretariat upon acceptance of each arbitrator's appointment on February 28, 2023 and March 6, 2023.

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.

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- 3.2. Non-refundable expenses incurred due to postponement or cancellation of a hearing shall be reimbursed.
- 3.3. In the event the Members of the Tribunal are asked to reserve more than one day for a hearing or meeting, and that hearing or meeting is either cancelled or postponed by more than one week by one or both of the parties, the Members of the Tribunal shall be remunerated for each day reserved as follows (based on an eight-hour day):
 - 3.3.1. Where the cancellation or postponement occurs within three months of the first day of such hearing, 25% of the applicable fees;
 - 3.3.2. Where the cancellation or postponement occurs within one month of the first day of such hearing, 50% of the applicable fees; or
 - 3.3.3. Where the cancellation or postponement occurs within three calendar days of the first day of such hearing, 100% of the applicable fees.
- 3.4. In the event that a hearing or meeting is cancelled or postponed pursuant to § 3.3 by one of the parties acting alone, that party shall bear the cost of cancellation or postponement as set out in § 3.3.1-3.3.3.

4. Presence and Quorum
Arbitration Rule 33

- 4.1. The participation of a majority of the Members of the Tribunal by any appropriate means of communication is required at case management conferences, except as otherwise provided in the Arbitration Rules or unless the parties agree otherwise. All Members of the Tribunal shall be present during hearings and deliberations.

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.

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- 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 possible reconsideration of such decision by the full Tribunal.
- 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. 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 possible reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal

Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Ms. Ella Rosenberg, 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. Ella Rosenberg

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ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.
Tel.: + 1 (202) 473-7756
Fax: + 1 (202) 522-2615/2027
Email: erosenberg@worldbank.org
Paralegal name: Mr. Pierre Nosewicz
Paralegal email: pnosewicz@worldbank.org
ICSID case address: arb/22/28@worldbank.org

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

Ms. Ella Rosenberg
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 apply to the Tribunal for consent to 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 conflict of interest with one or more members of the Arbitral Tribunal.

For the Claimants

Mr. Stephen Fietta KC
Mr. Ashique Rahman
Ms. Laura Rees-Evans
Ms. Lea Christopher
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For the Respondent

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Mr. Lourenço Vilhena de Freitas
Mr. Manuel Requicha Ferreira
Mr. Miguel Pereira da Silva
Ms Carolina Salazar Leite
Ms Inês Abreu Régio
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ines.abreu.regio@cuatrecasas.com

8.2. The following representatives of the parties will be copied in all notifications and communications from ICSID and the Tribunal:

For the Claimants

Notifications and communications should be sent to those persons listed in §8.1.

For the Respondent

Ms. Rosa Ribeiro
Director of Legal Support and Litigation Services,
Av. Infante D. Henrique, 1
1149-009 Lisbon
Portugal
Rosa.Ribeiro@sgmf.gov.pt

Ms. Patricia Galvao Teles
Director of the Department of Legal Affairs of the Ministry of Foreign Affairs
Largo do Rilvas
1399-030 Lisbon
Portugal
patricia.teles@mne.pt

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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 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 November 11, 2022, ICSID requested that the Claimants pay US\$ 150,000 to cover the initial costs of the proceeding through the first session. ICSID received the Claimants' payment on December 22, 2022. Upon the constitution of the Tribunal, by letter of May 8, 2023, ICSID requested that the parties pay US\$ 400,000 to defray the estimated costs of the subsequent phase of the proceeding. Payment made by the Claimants on December 22, 2022, is considered a partial payment toward that sum. ICSID received the balance of the Claimants' share of this sum on 24 May 2023. ICSID received the Respondent's payment on 13 June 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. Washington, D.C., United States, 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 below.
- 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.

For Documents and Communications

- 11.2. The Tribunal and the Secretariat shall communicate with the parties in the English language.

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- 11.3. Documents filed in any other language must be accompanied by a translation into English.
- 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.

For the Hearing(s)

- 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 **Annex B** below) and as soon as possible.
- 11.8. The testimony of a witness called for examination during the hearing who is required to give evidence in a language other than in 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. 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.

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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 submit by email to the Tribunal Secretary and the opposing party an electronic version of the pleading with witness statements, expert reports and an updated index of all supporting documentation.¹

13.2 By the third business day following the relevant filing date, the parties shall upload the pleading with all the supporting documentation and an updated index of the supporting documentation to the file sharing platform that has been created by ICSID for purposes of this case.²

13.3 By the third business day following the relevant filing date, the parties shall send hard copies (in A5 format, double sided) of their submissions, including witness statements, expert reports, and exhibits but not legal authorities, to Mr. Sharpe and Prof. Dr. Schill and hard copies of the submissions (in A4 format, double sided) to Prof. Stern. The parties shall also send all three arbitrators the entire submission on a USB key, to the following addresses:

Mr. Jeremy K. Sharpe
155 Glebe Avenue
Ottawa, ON K1S 2C4
Canada

Prof. Dr. Stephan Schill
Max Planck Institute for Comparative Public Law and
International Law
Im Neuenheimer Feld 535
69120 Heidelberg
Germany

Prof. Brigitte Stern
7 rue Pierre Nicole
Code A1672
75005 Paris
France

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.

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- 13.4 Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word). Any spreadsheet or table shall be editable and all formulae visible. The source of any data used in the creation of spreadsheets and tables shall be indicated.
- 13.5 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**.
- 13.6 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.³
- 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.

14. Number and Sequence of Pleadings – Procedural Calendar
Arbitration Rule 30

- 14.1. The arbitration shall proceed in accordance with the Procedural Timetable attached hereto as **Annex B**, except if the Tribunal, upon a showing of good cause by either party or on its own initiative, decides to amend the timetable.
- 14.2. The parties' Memorial and Counter-Memorial shall set out all facts and legal arguments, and submit all documentary and written witness and expert evidence, on which they intend to rely in support of their respective cases. Allegations of fact and legal arguments shall be presented in a detailed, specific and comprehensive

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

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manner, and shall respond to all allegations of fact and legal arguments made by the other party.

- 14.3. The parties' Reply and Rejoinder shall be limited to responding to the previous written submission and to addressing relevant facts that are new or that could not have been known prior to filing the Reply or Rejoinder.
- 14.4. Following each factual allegation, the parties shall, whenever possible, identify the evidence adduced or to be adduced in support of that allegation. Following each legal argument, the parties shall, whenever possible, identify the legal authority adduced or to be adduced in support of that argument.
- 14.5. All written submissions shall be divided into consecutively numbered paragraphs.
- 14.6. The parties shall include in their submissions a list of abbreviations. Each party shall strive to use the same abbreviations as the other party and the parties shall update their list of abbreviations in subsequent submissions.
- 14.7. The number and sequence of pleadings and hearing dates are set out in **Annex B**. Time limits for the Tribunal's decisions are set out at §5.7 and **Annex B**.

15. Production of Documents

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

- 15.1. The Tribunal shall be guided but not bound by the 2020 IBA Rules on the Taking of Evidence in International Arbitration.
- 15.2. Within the time limit set in **Annex B**, each party may request from the other party the production of documents or categories of documents within the other party's possession, custody or control. Such a request for production shall identify each document or narrow category of documents sought with precision, in the form of a Redfern Schedule as attached in **Annex C** hereto, in both Word and .pdf format, specifying why the document sought is relevant to the dispute and material to the outcome of the case. Such a request shall not be copied to the Tribunal or the Secretary of the Tribunal.
- 15.3. Within the time limit set forth in **Annex B**, the other party shall, using the Redfern Schedule provided by the first party, submit its reasons for not producing responsive documents (objections), or its agreement to the request. It shall not be copied to the Tribunal or the Secretary of the Tribunal.
- 15.4. On the date provided in **Annex B**, the other party shall produce to the first party the requested documents to which it has not filed any objection.

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- 15.5. Within the time limit set forth in **Annex B**, the requesting party may seek an order for production of documents sought and not produced, in which case it shall reply to the other party's objections in that same Redfern Schedule. At the same time, it shall submit the Word and .pdf copies of the Redfern Schedule to the Tribunal through the Secretary of the Tribunal.
- 15.6. On or around the date set forth in **Annex B**, the Tribunal will, at its discretion, rule upon the production of the documents or categories of documents, having regard to all relevant circumstances, including the legitimate interests of the parties and applicable privileges.
- 15.7. Documents which the Tribunal orders to be produced shall be communicated directly to the requesting party without copying the Tribunal or the Secretary of the Tribunal within the time limit set by the Tribunal. Documents so communicated shall not be deemed on record unless and until the requesting party subsequently files such documents as exhibits in accordance with §16 below.
- 15.8. The Tribunal may order a party to produce documents on its own initiative at any time. In that case, the documents shall be submitted to the other party and to the Tribunal in accordance with §16 below and shall be deemed on record.
- 15.9. If a party fails to comply with an order to produce a document or specific category of documents, the Tribunal may draw inferences deemed appropriate, taking into consideration all relevant circumstances.

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.

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- 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-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 §16.5.4 below.
- 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.
- 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 in the manner and form set forth in §13 above. Documents need not be resubmitted with witness statements even if referred to in such statements.
- 16.8. 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, other than PowerPoint slides, shall be distributed by the party intending to use it via an electronic mail sent to the

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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 by 6 p.m. of the day before its intended use at the hearing.

- 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' 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 above).
- 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 limit set forth in **Annex B**, each party shall notify the other party and the Tribunal of the names of the witnesses and experts presented by the other party to be cross-examined at the hearing.
- 18.2. The Tribunal may direct that a witness or expert not otherwise called by a party attend the hearing for examination.
- 18.3. A party shall not be permitted, without leave of the Tribunal, to present direct examination from that party's own witnesses or experts who have not been called for cross-examination.
- 18.4. A party's waiver of its right to cross-examine a witness or expert does not imply acceptance of the content of that witness's or expert's written testimony. When a party has waived its right to cross-examine a witness or expert or has limited the cross-examination to only part of the relevant witness statement or expert report, the Tribunal will exercise its discretion in weighing the evidence of that witness or expert.

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- 18.5. Each party is responsible for summoning to the hearing those witnesses and experts whom the other side has called for cross-examination or whom the Tribunal has directed to appear. Each party shall bear the costs of its witnesses' and experts' appearance at the hearing, subject to the Tribunal's later allocation of costs.
- 18.6. In exceptional circumstances, the Tribunal may allow a witness to appear and be examined by videoconference and in such cases will issue appropriate directions.
- 18.7. If a witness or expert called for cross-examination ultimately fails to attend the hearing in person or by videoconference for any reason, the Tribunal shall decide what weight, if any, should be given to the written testimony of such witness or expert, after hearing from the parties and taking into account all relevant circumstances.
- 18.8. Subject to further discussion at the pre-hearing organizational meeting, the procedure for examining witnesses will be as follows:
 - 18.8.1. The party that has presented the witness may conduct a brief direct examination to confirm the witness statement, with any corrections, and to ask introductory questions, including about matters that have arisen after that witness's last written statement was signed. As a general rule, direct examination shall not exceed ten minutes.
 - 18.8.2. The opposing party may then cross-examine the witness about relevant facts within the witness's knowledge, not necessarily limited to facts addressed in the witness statement.
 - 18.8.3. The party presenting the witness may then re-examine the witness about any matters or issues arising out of the cross-examination or questions posed by the Tribunal.
 - 18.8.4. The Tribunal may examine the witness at any time, whether before, during or after examination by either party.
- 18.9. The procedure for examining experts will be the same, except that, subject to further discussion at the pre-hearing organizational meeting, the Tribunal may invite experts, in lieu of direct examination, to make a presentation lasting no longer than 30 minutes before the start of their cross-examination, to summarize their methodology and conclusions. The Tribunal may also order two or more experts to be examined concurrently, through witness conferencing or otherwise.

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- 18.10. Issues concerning the sequestration of witnesses, including party representatives, will be determined by the Tribunal, following discussions in the pre-hearing organizational meeting.
- 18.11. The Tribunal shall exercise full control over witness and expert examination, including the right to limit or exclude questions to a witness or expert when it considers that the subject of the intended examination is sufficiently addressed by other evidence, or that the witness's examination is irrelevant, immaterial, unduly burdensome or duplicative.

19. Case Management Conferences
Arbitration Rule 31

- 19.1. The Tribunal may convene case management conferences with the parties in accordance with ICSID Arbitration Rule 31 in order to (i) identify uncontested facts (e.g., joint chronology of facts); (ii) clarify and narrow the issues in dispute (e.g., address tribunal questions, decision tree, road map, and/or skeleton arguments); or (iii) address any other procedural or substantive issue related to the resolution of the dispute (e.g., appointment of Tribunal-appointed expert, production of evidence). A case management conference is scheduled to take place after the first round of written submissions as provided for in **Annex B**.
- 19.2. A case management conference for hearing organization shall be held at a date determined by the Tribunal after consultation with the parties. It shall comprise a 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.
- 19.3. 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.

20. Hearings
Arbitration Rule 32

- 20.1. The oral procedures shall consist of hearings for examination of witnesses and experts, if any, and for oral arguments.
- 20.2. The hearings shall, in principle, be held in person. In-person hearings shall be held at a place to be determined in accordance with §10.2 above.

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- 20.3. Under exceptional circumstances and in consultation with the parties, the Tribunal may decide to hold a hearing remotely or in a hybrid form. If a hearing is scheduled for no more than one day, the Tribunal may, at its discretion, decide to hold that hearing remotely or in a hybrid form if, after consulting with the parties, it believes that form to be more expeditious than an in-person hearing.
- 20.4. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 20.5. Allocation of time shall be guided by the principles of equality and due process. The parties shall seek to agree the allocation of hearing time in the proposal/s for the daily schedule for the hearing to be submitted to the Tribunal in accordance with §19.3 above.

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 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.
- 21.3. The parties shall agree on any corrections to the transcripts within 30 days of the later of the dates of the receipt of the sound recordings and transcripts. 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. In consultation with the parties, the Tribunal will decide during or shortly after the hearing whether post-hearing submissions are required and, if so, on the length and scope of any such submissions.

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- 22.2. The Tribunal will consider at the appropriate time the parties' positions on the allocation of costs of the proceeding. The Tribunal may ask the parties to submit cost submissions at a date agreed in due course.

23. Transparency Matters

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

- 23.1. The parties agree that the transparency regime governing these proceedings is dealt with in Procedural Order No. 2.

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. Any agreement pursuant to ICSID Arbitration Rule 54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.

*Suffolk (Mauritius) Limited, Mansfield (Mauritius) Limited and Silver Point Mauritius v.
Portuguese Republic*
(ICSID Case No. ARB/22/28)

Procedural Order No. 1

On behalf of the Tribunal,

[Signature]

Jeremy K. Sharpe
President of the Tribunal
Date: July 13, 2023

ANNEX A – ELECTRONIC FILE NAMING GUIDELINES

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
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>Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</i>
	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
Expert Reports	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE
	<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	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 Statements, Expert Reports, Legal Opinions	WITNESS/EXPERT INITIALS-###
	<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-###

*Suffolk (Mauritius) Limited, Mansfield (Mauritius) Limited and Silver Point Mauritius v.
Portuguese Republic
(ICSID Case No. ARB/22/28)*

Procedural Order No. 1 – Annex A

	<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 – SCHEDULE

ANNEX B – SCHEDULE

Schedule in the event that Respondent does not request bifurcation.

Date	Party/Tribunal	Description	Time interval
27 June 2023	All	First Session	
17 October 2023	Claimants	Claimants' Memorial on the Merits	16 weeks from First Session
6 February 2024	Respondent	Respondent's Objections to Jurisdiction and Counter-Memorial on the Merits	16 weeks from Claimants' Memorial on the Merits
27 February 2024	Parties	Requests to Produce Documents	3 weeks from Respondent's Objections to Jurisdiction and Counter-Memorial on the Merits
12 March 2024	Parties	Objections to Produce	2 weeks from Requests
26 March 2024	Parties	Responses to Objections to the Requests for Production of Documents (submitted to the Tribunal). Separately, the Parties shall produce any non-contested documents to the other side on the same day (and without sending those documents the Tribunal or the Secretariat)	2 weeks from Objections
9 April 2024	Tribunal	Decision on Request to Produce	2 weeks from submission of completed Redfern Schedules
23 April 2024	Parties	Production of all Documents	2 weeks from Decision on Request to Produce
28 May 2024	Claimants	Claimants' Counter-Memorial on Objections to Jurisdiction and Reply on the Merits	16 weeks from Respondent's Objections to Jurisdiction and Counter-Memorial on the Merits
17 September 2024	Respondent	Respondent's Reply on Objections to Jurisdiction and Rejoinder on the Merits	16 weeks from Claimants' Counter-Memorial on Objections

			to Jurisdiction and Reply on the Merits
29 October 2024	Claimants	Claimants' Rejoinder on Objections to Jurisdiction	6 weeks from Respondent's Reply on Objections to Jurisdiction and Rejoinder on the Merits
12 November 2024	Parties	Notification of Witnesses and Experts	2 weeks from Claimants' Rejoinder on Objections to Jurisdiction
19 November 2024	Tribunal	Tribunal's Call (if Any) of Witnesses and Experts not Called by the Parties	1 week from Notification of Witnesses and Experts
26 November 2024	Parties	Proposals regarding Daily Hearing Schedule	1 week from Tribunal's Call (if any) of Witnesses and Experts not called by the Parties
3 December 2024	All	Pre-Hearing Organizational Meeting with Tribunal or Tribunal President	1 week from Proposals regarding Daily Hearing Schedule
20-29 January 2025 (with 30-31 January 2025 held in reserve)	All	Hearing	7 weeks from Pre-Hearing Organizational Meeting

ANNEX B – SCHEDULE

Schedule in the event that Respondent requests bifurcation.

Date	Party/Tribunal	Description	Time interval
27 June 2023	All	First Session	
17 October 2023	Claimants	Claimants' Memorial on the Merits	16 weeks from First Session
Request for bifurcation			
5 December 2023	Respondent	Respondent's request for bifurcation and summary of jurisdictional objections	7 weeks from Claimants' Memorial on the Merits
23 January 2024	Claimants	Claimants' response to the request for bifurcation	7 weeks from Respondent's request for bifurcation
20 February 2024	Tribunal	Tribunal's decision on bifurcation	4 weeks from Claimants' response to request for bifurcation
A. Bifurcation			
16 April 2024	Respondent	Respondent's Memorial on Jurisdiction	8 weeks from Tribunal's decision on bifurcation
11 June 2024	Claimants	Claimants' Counter-Memorial on Jurisdiction	8 weeks from Respondent's Memorial on Jurisdiction
25 June 2024	Parties	Request to Produce Documents on Jurisdiction (if any)	2 weeks from Claimants' Counter-Memorial on Jurisdiction
9 July 2024	Parties	Objections to Produce	2 weeks from Requests
23 July 2024	Parties	Responses to Objections to the Requests for Production of Documents (submitted to the Tribunal). Separately, the Parties shall produce any non-contested documents to the other side on the same day (and without sending those	2 weeks from Objections

		documents the Tribunal or the Secretariat)	
6 August 2024	Tribunal	Tribunal's Decision on Document Production Requests	2 weeks from submission of completed Redfern Schedules
20 August 2024	Parties	Production of all Documents	2 weeks from Tribunal's Decision
1 October 2024	Respondent	Reply on Jurisdiction	6 weeks from Production of Documents
12 November 2024	Claimants	Rejoinder on Jurisdiction	6 weeks from Reply on Jurisdiction
26 November 2024	Parties	Notification of Witnesses and Experts	2 weeks from Claimants' Rejoinder on Jurisdiction
3 December 2024	Tribunal	Tribunal's Call (if Any) of Witnesses and Experts Not Called by the Parties	1 week from Notification of Witnesses and Experts
10 December 2024	All	Pre-Hearing Organizational Meeting with Tribunal or Tribunal President	6 weeks from Hearing on Jurisdiction
20-23 January 2025, with 24 January 2025 held in reserve	All	Hearing on Jurisdiction	6 weeks from Pre-Hearing Organizational Meeting
B. No bifurcation			
4 June 2024	Respondent	Respondent's Objections to Jurisdiction and Counter-Memorial on the Merits	15 weeks from Tribunal's decision denying bifurcation [22 weeks from Claimants' Memorial]
18 June 2024	All	Case Management Conference with Tribunal or Tribunal President	2 weeks from Respondent's Objections to

			Jurisdiction and Counter-Memorial on the Merits
25 June 2024	Parties	Requests to Produce Documents	1 week from Case Management Conference
2 July 2024	Parties	Objections to Produce	1 week from Requests to Produce Documents
16 July 2024	Parties	Responses to Objections to the Requests for Production of Documents (submitted to the Tribunal). Separately, the Parties shall produce any non-contested documents to the other side on the same day (and without sending those documents to the Tribunal or the Secretariat)	2 weeks from Objections
30 July 2024	Tribunal	Decision on Requests to Produce	2 weeks from submission of completed Redfern Schedules
13 August 2024	Parties	Production of all Documents	2 weeks from Tribunal's Decision
24 September 2024	Claimants	Claimants' Counter-Memorial on Jurisdiction and Reply on the Merits	16 weeks from Respondent's Objections to Jurisdiction and Counter-Memorial on the Merits
14 January 2025	Respondent	Respondent's Reply on Jurisdiction and Rejoinder on the Merits	16 weeks from Claimants' Counter-Memorial on Jurisdiction and Reply on the Merits
25 February 2025	Claimants	Claimants' Rejoinder on Jurisdiction	6 weeks from Respondent's Reply on Jurisdiction and Rejoinder on the Merits

11 March 2025	Parties	Notification of Witnesses and Experts	2 weeks from Claimants' Rejoinder on Jurisdiction
18 March 2025	Tribunal	Tribunal's Call (if Any) of Witnesses and Experts Not Called by the Parties	1 week from Notification of Witnesses and Experts
6 June 2025	All	Pre-Hearing Organizational Meeting	2 weeks before the Hearing
23 June to 2 July 2025 (with 3-4 July held in reserve)	All	Hearing	2 weeks from Pre-Hearing Organizational Meeting

ANNEX C – DOCUMENT PRODUCTION

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