

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Fotowatio Renewable Ventures S.L.U., FRV Solar Holdings III, S.L.U. and  
FRV Solar Holdings VI, S.L.U.**

**v.**

**United Mexican States**

**(ICSID Case No. ARB/24/5)**

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**PROCEDURAL ORDER NO. 1**

***Members of the Tribunal***

Sir Christopher Greenwood, GBE, CMG, KC, President of the Tribunal

Mr. Henri C. Alvarez, KC, Arbitrator

Prof. Mónica Pinto, Arbitrator

***Secretary of the Tribunal***

Ms. Gabriela González Giráldez

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11 September 2024

**Contents**

1.	Applicable Arbitration Rules .....	3
2.	Constitution of the Tribunal and Declarations of the Members of the Tribunal .....	3
3.	Fees and Expenses of the Members of the Tribunal .....	3
4.	Presence and Quorum .....	4
5.	Rulings of the Tribunal .....	4
6.	Power to Fix Time Limits .....	5
7.	Secretary of the Tribunal.....	5
8.	Representation of the Parties.....	6
9.	Apportionment of Costs and Advance Payments to ICSID – Division of Advances .....	7
10.	Place of Proceeding and Hearings.....	7
11.	Procedural Languages, Translation and Interpretation.....	8
12.	Routing of Communications .....	9
13.	Number of Copies and Method of Filing of Parties’ Pleadings .....	9
14.	Number and Sequence of Pleadings – Procedural Timetable .....	10
15.	Production of Documents.....	11
16.	Submission of Documents.....	12
17.	Witness Statements and Expert Reports.....	13
18.	Examination of Witnesses and Experts.....	15
19.	Pre-Hearing Organizational Meetings.....	17
20.	Case Management Conferences .....	17
21.	Hearings .....	17
22.	Recordings of Hearings and Sessions .....	18
23.	Post-Hearing Memorials and Statements of Costs.....	18
24.	Transparency Matters.....	18
25.	Data Privacy and Cybersecurity.....	18
26.	Amicable Dispute Settlement.....	19
27.	Miscellaneous.....	19
	<b>Annex A – Electronic File Naming Guidelines .....</b>	<b>20</b>
	<b>Annex B – Procedural Timetable .....</b>	<b>22</b>
	<b>Annex C – Redfern Schedule .....</b>	<b>23</b>

## **Introduction**

The first session of the Tribunal was held on 5 September 2024, at 7:00AM Vancouver / 8:00AM Mexico City / 10:00AM Washington DC / 11:00AM Buenos Aires / 3:00PM London, by videoconference via Zoom. The session was adjourned at 11:35AM (Washington DC).

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:

Sir Christopher Greenwood, GBE, CMG, KC, President of the Tribunal  
Mr. Henri C. Alvarez, KC, Arbitrator  
Prof. Mónica Pinto, Arbitrator

### ICSID Secretariat:

Ms. Catherine Kettlewell, Senior Legal Counsel  
Mr. Federico Salon Kajganich, Paralegal

### On behalf of the Claimants:

Mr. Nigel Blackaby, KC, Freshfields Bruckhaus Deringer US LLP  
Mr. Noah Rubins, KC, Freshfields Bruckhaus Deringer LLP  
Ms. Clara Bianchi Ferran, Freshfields Bruckhaus Deringer LLP  
Mr. Santiago Oñate Y., Galicia Abogados SC

### On behalf of the Respondent:

Mr. Alan Bonfiglio Ríos, Secretaría de Economía  
Mr. Rafael Rodríguez Maldonado, Secretaría de Economía  
Mr. Rafael Alejandro Augusto Arteaga Farfán, Secretaría de Economía  
Mr. Alejandro Rebollo Ornelas, Secretaría de Economía  
Ms. Laura Mejía Hernández, Secretaría de Economía  
Mr. Aldo González Aranda, Secretaría de Economía  
Ms. Rosa María Baltazares Gómez, Secretaría de Economía  
Mr. Greg Tereposky, Tereposky & DeRose LLP  
Mr. Alejandro Barragán, Tereposky & DeRose LLP  
Mr. Juan Pablo Gómez, Tereposky & DeRose LLP

The Tribunal and the Parties considered the following:

- The Draft Procedural Orders No. 1 and No. 2 circulated by the Secretary of the Tribunal on 8 August 2024; and
- The Parties' comments on the Draft Procedural Orders received on 28 August 2024, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

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 procedural 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 1 July 2022, except to the extent that they are modified by Chapter III of the Agreement on the promotion and reciprocal protection of investments between the United Mexican States and the Kingdom of Spain.

2. **Constitution of the Tribunal and Declarations of the Members of the Tribunal**

*Arbitration Rule 21*

2.1. The Tribunal was constituted on 23 July 2024 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: (i) Mr. Henri C. Alvarez's declaration and accompanying statement were transmitted to the Parties on 1 May 2024; (ii) Prof. Mónica Pinto's declaration and accompanying statement were transmitted to the Parties on 17 May 2024; and (iii) Sir Christopher Greenwood's declaration and accompanying statement were transmitted to the Parties on 23 July 2024. The ICSID Secretariat transmitted copies of all the declarations to the Parties on 23 July 2024.

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 the Members of the Tribunal**

*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 Member of the Tribunal 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 the Members of the Tribunal by any appropriate means of communications is required at the first session, case management conferences, the pre-hearing organizational meeting, 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.
- 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 and shall be issued after hearing from the Parties. The reasons may be minimal for non-controversial or minor procedural, administrative and organizational matters, *e.g.*, extensions of time. In relation to contested requests for document production, detailed reasons need not be given in respect of each request.
- 5.7. The Tribunal will use its 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). If a ruling, other than the Award, a decision on jurisdiction or a decision under ICSID Arbitration Rule 41, has not been issued within one month after the final submission on a particular matter, the Tribunal will make its best efforts to provide the Parties with status updates every month. If the Award has not been issued within six months after the final submission, excluding submissions on costs, the Tribunal will make its best efforts to provide the Parties with status updates every three months. If a decision on jurisdiction has not been issued within three months after the final submission or a decision under ICSID Arbitration Rule 41 within two months after the final submission, the Tribunal will make its best efforts to provide the Parties with status updates every month. In each case, reference to the final submission means date of dispatch of the English version or translation of that submission.
- 5.8. Any ruling of the Tribunal, including the certified copy of the Award, will be dispatched electronically to the Parties. The certified copy of the Award will also be sent via *courier* to the address designated by each Party.

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.
- 6.3. Short extensions of time may be agreed between the Parties as long as (i) they do not materially affect the overall schedule of the procedure as set out in the procedural timetable (the "**Procedural Timetable**") and (ii) the Tribunal is informed.

7. Secretary of the Tribunal  
*Administrative and Financial Regulation 28*

- 7.1. The Secretary of the Tribunal is Ms. Gabriela González Giráldez, 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:

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

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8. Representation of the Parties  
*Arbitration Rule 2*

8.1. Each Party shall be represented by its counsel (below) and may designate new or additional agents, counsel, or advocates by notifying the Tribunal and the Secretary of the Tribunal promptly of such designation.

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- 8.2. In the event that a Party wishes to appoint new or additional agents, counsel or advocates, the Tribunal shall have the power to take measures that it considers appropriate to protect the integrity of the arbitration, including, in exceptional circumstances, refusing designation of new or additional agents, counsel, or advocates if the designation would create a conflict of interest with one or more Members of the Tribunal.
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 14 March 2024, ICSID informed the Parties that US\$ 300,000 will be necessary to cover the estimated costs of the initial phase of the proceeding through the first session of the Tribunal, as well as the subsequent phase, and requested that the Claimants pay US\$ 150,000. ICSID received the Claimants' payment on 28 March 2024. Upon the constitution of the Tribunal, by letter of 29 July 2024, ICSID requested that the Respondent pay US\$ 150,000. At the first session, the Agent of the Respondent informed the Tribunal that the Respondent expected to make payment before the end of September 2024.
- 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. 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 paragraph 21.2.
- 10.3. The Members of the Tribunal may deliberate at any place and by any appropriate means they consider convenient.



11. Procedural Languages, Translation and Interpretation

*Administrative and Financial Regulation 32; Arbitration Rule 7*

- 11.1. Spanish and English are the procedural languages of the arbitration.
- 11.2. The Tribunal and the Secretariat may communicate with the Parties in either procedural language.
- 11.3. Any document (*e.g.* written requests, applications, pleadings, expert opinions, witness statements, or supporting documents) may be filed in either procedural language. English courtesy translations of any written request or application presented in Spanish shall be submitted within 2 days, unless the decision for the request or application is required before that deadline in which case the English courtesy translation shall be submitted concurrently, or the request or application filed directly in English.
- 11.4. Any documents in another language shall be accompanied by a translation into either procedural language, unless the Tribunal orders translation into both procedural languages. 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 pursuant to section 15 below (Production of Documents) may be produced in the original language and need not be translated.
- 11.7. Translations of documents submitted by the Parties in one of the procedural languages shall be translated as follows, with translations provided no later than 25 calendar days after the document is submitted.
  - (a) Written pleadings, witness statements, and expert reports submitted in one procedural language shall be translated in full into the other procedural language;
  - (b) Factual exhibits need only be translated in relevant part, provided that the translated portion is sufficient to allow a complete understanding of the text and context;
  - (c) Legal authorities need not be translated.
- 11.8. The Parties will notify the Tribunal as soon as possible, and no later than at the Pre-Hearing Organizational Meeting (see section 19 below), which witnesses or experts require interpretation.
- 11.9. The Tribunal will, in consultation with the Parties, determine whether simultaneous interpretation into both procedural languages will be provided during the hearing.
- 11.10. The testimony of a witness or expert called for examination during the hearing who prefers to give evidence other than in English or Spanish shall be interpreted simultaneously into either procedural language, unless the Tribunal orders interpretation into both procedural languages.

Procedural Order No. 1

- 11.11. 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.
- 11.12. Subject to paragraph 11.13 below, the Tribunal may make any order or decision in either procedural language.
- 11.13. The Tribunal shall render the Award and any decision on jurisdiction or decision under ICSID Arbitration Rule 41 in English and Spanish simultaneously. Both language versions shall be equally authentic.

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 Secretary of the Tribunal, 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 Secretary of the Tribunal only, who shall send them to the opposing Party and the Tribunal.
- 12.4. The Secretary of the Tribunal 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 Secretary of the Tribunal and the opposing Party an electronic version of the pleading with witness statements, expert reports and an index of all supporting documentation (the "**Email filing**").<sup>1</sup>
- 13.2. No later than five business days<sup>2</sup> after the relevant filing date, the Parties shall 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 (the "**Electronic Filing**").<sup>3</sup> For the avoidance of doubt, the electronic filing process indicated in this subparagraph is applicable both to the original language submission and to any subsequent translations agreed by the Parties.
- 13.3. No later than five business days following the relevant filing date, the Parties shall courier to Mr. Henri C. Alvarez one hard copy of their pleading, witness statements and expert

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<sup>1</sup> Please note that the World Bank server does not accept emails larger than 25 MB.

<sup>2</sup> "Business days" shall be understood as those in Washington D.C., Mexico and Madrid.

<sup>3</sup> Supporting documentation shall be uploaded as individual files, not in .zip format.

Procedural Order No. 1

reports in mini-bundle format (A5 and double-sided) to the address indicated in footnote 4 below.<sup>4</sup>

- 13.4. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable and workable (*i.e.*, OCR PDF or Word that allows highlight and copying text).
- 13.5. All pleadings shall contain consecutively numbered paragraphs, a table of contents 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, the pleading with which it was submitted and the language of the document, 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, and in any event at least four weeks before the hearing, the Parties will provide the Secretariat and the Members of the Tribunal a hyperlink to a folder containing an electronic copy of the entire case file (including pleadings, witness statements, expert reports, exhibits, legal authorities and Tribunal decisions and orders to date) with a consolidated hyperlinked index of all documents.<sup>5</sup>
- 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 Secretary of the Tribunal by email.
- 13.8. A filing shall be deemed timely if sent by a Party by 11:59PM, 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 Timetable

*Arbitration Rule 30*

- 14.1. The proceedings shall consist of a written phase followed by an oral phase.
- 14.2. The number and sequence of pleadings, and the dates on which they are to be filed, shall be set out in **Annex B**. Any amendment to the Procedural Timetable shall be reflected in an updated **Annex B**.
- 14.3. The Parties' first submissions shall set forth the facts, the legal argumentation and the relief sought. The Parties should endeavour to discharge their burden of proof in their first submissions and should not rely on later submissions to provide evidence for unsupported

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<sup>4</sup> For deliveries by courier to Mr. Alvarez please use the following address:



<sup>5</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 filesharing platform, in a sub-folder and including a consolidated (non-hyperlinked) index.

allegations made in the first submissions. The Parties' subsequent submissions shall be limited to replying to the arguments that the counterparty has raised in its previous submission except with respect to new facts that have arisen following the first exchange of submissions.

- 14.4. Neither Party shall be permitted to submit additional pleadings with regard to the merits outside of the Procedural Timetable, unless the Tribunal determines that exceptional circumstances exist based on a reasoned written request followed by observations from the other Party.

15. Production of Documents

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

- 15.1. The Parties shall follow Articles 3.3, 9.2 and 9.3 of the International Bar Association Rules for the Taking of Evidence in International Arbitration (2020) in making their respective document requests and objections to the other Party's request, except as otherwise modified in this Procedural Order.
- 15.2. Within the time limit set in **Annex B**, each Party may request from the other Party the production of a reasonable number 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 either produce the requested documents or, using the Redfern Schedule provided by the first Party, submit its reasons for its failure or refusal to produce responsive documents (objections).
- 15.4. Within the time limit set forth in **Annex B**, the requesting Party may seek an order for the production of the documents requested 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.
- 15.5. The Parties shall make no submissions in respect of the steps set out in paragraphs 15.1 to 15.3 above other than those incorporated in the Redfern Schedules.
- 15.6. On the date set forth in **Annex B**, which may be extended if necessary, the Tribunal will, at its discretion, rule upon the production of the documents or categories of documents having regard to the legitimate interests of the Parties and all the relevant circumstances, including applicable privileges and if appropriate the burden of proof.
- 15.7. The Tribunal may for this purpose refer to the International Bar Association Rules for the Taking of Evidence in International Arbitration (2020) in International Arbitration 2020 in regard to matters concerning the gathering or taking of evidence, that are not otherwise covered by this Procedural Order or the ICSID Arbitration Rules. Documents ordered by the Tribunal to be disclosed shall be produced within the time limit set forth in the Procedural Timetable.

- 15.8. Documents which the Tribunal orders to be produced shall be communicated directly to the requesting Party without copying the Tribunal. Documents so communicated shall not be considered to be on record unless and until a Party subsequently files them as exhibits in accordance with section 16 below.
- 15.9. In addition, 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 section 16 below and shall be considered to be on record.

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 section 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 the Claimants shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities, etc. The number for each exhibit containing a document produced by the Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities, etc.
- 16.5.2 Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-0001” and “R-0001,” and “CL-0001” and “RL-0001” respectively. The numbering shall also indicate the language of the document e.g. C-0001-ENG for a document submitted only in English, C-0001-SPA for a document submitted only in Spanish and C-0001-ENG/SPA for a document submitted simultaneously in English and Spanish. The number of the

Procedural Order No. 1

exhibit or legal authority shall appear on the first page of the document and shall be incorporated into the file name in accordance with paragraph 16.5.4.

16.5.3 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. 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, and (ii) do not contain information not in the record.

16.9 An electronic copy of each demonstrative exhibit shall be distributed by the Party intending to use it via an electronic mail sent to the entire case email distribution for each Party, the Members of the Tribunal, the Secretary of the Tribunal, the court reporter and the interpreters as necessary at least one hour prior to its use. For the avoidance of doubt, demonstrative exhibits are visual aids summarizing information already in the record or presenting such information in a different way (*i.e. charts, tables, etc.*). All demonstrative exhibits should clearly indicate by record citation the sources upon which they are based.

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 paragraph 16.2).

17.3. Each witness statement shall be signed and dated by the witness and include:

17.3.1. The full name of the witness;

Procedural Order No. 1

- 17.3.2. A disclosure statement detailing any past and present relations of the witness with any Party, counsel or Member of the Tribunal;
  - 17.3.3. A description of the witness' position and qualifications, if relevant;
  - 17.3.4. A full and detailed description of the facts, and the source of the witness's information as to each of those facts;
  - 17.3.5. Any documents on which the witness relies that have not already been submitted (which shall be submitted with sequential numbering in accordance with **Annex A**);
  - 17.3.6. A statement as to the language in which the witness statement was originally prepared and the language in which the witness anticipates giving testimony at the hearing;
  - 17.3.7. A declaration regarding whether the witness received any form of compensation for his or her testimony; and
  - 17.3.8. An affirmation of the truth of the witness statement.
- 17.4. Witness Statements shall have consecutive numbering on pages, headings and paragraphs.
- 17.5. It shall be proper for a Party, its officers, employees, legal advisors or other representatives to interview its witnesses or potential witnesses and to discuss their prospective testimony with them.
- 17.6. Expert reports shall be dated and signed by the expert or experts and contain:
- 17.6.1. The full name of the expert;
  - 17.6.2. A disclosure statement detailing any past and present relations of the expert with any Party, counsel or Member of the Tribunal;
  - 17.6.3. A brief description of the expert's qualifications;
  - 17.6.4. A brief description of the instructions pursuant to which the expert is providing his or her opinions and conclusions;
  - 17.6.5. A statement of the expert's independence from the Parties, their legal advisors and the Tribunal;
  - 17.6.6. A statement of the facts on which the expert is basing his or her expert opinions and conclusions;
  - 17.6.7. An executive summary of the expert's main findings;
  - 17.6.8. The expert's expert opinions and conclusions, including a description of the methods, evidence and information used in arriving at the conclusions;

- 17.6.9. The documents relied on by the expert in the preparation of his or her report, which shall be provided as annexes to the report and may have their own sequential numbering; any spreadsheet or table shall be editable and all formulae visible; data used in the creation of spreadsheets and tables should indicate its source;
- 17.6.10. An affirmation of the expert's genuine belief in the opinions expressed in the report.
- 17.7. Expert reports shall be submitted in a searchable electronic file format and have consecutive numbering of pages, headings and paragraphs, as well as a detailed table of contents.
- 17.8. If the Expert Report has been signed by more than one person, an attribution of the entirety or specific parts of the Expert Report to each author.
- 17.9. It shall be proper for a Party, its officers, employees, legal advisors or other representatives to interview its expert or potential experts and to discuss their prospective testimony with them.
18. Examination of Witnesses and Experts  
*Arbitration Rule 38*
- 18.1. A Party may be called upon by the opposing Party to produce at the hearing for cross examination any factual or expert witness whose written testimony has been advanced with the pleadings. The examination of a fact or expert witness by video conference may be permitted for justified reasons at the discretion of the Tribunal. If a witness whose appearance has been requested fails without a valid reason to appear for testimony at a hearing, even by video conference, the Tribunal shall assess the weight of the written statement taking into account the entire record and all the relevant circumstances. Only one fact witness for each Party may be designated as a party representative. There is no limit on party representatives who are not fact witnesses. Each Party shall be responsible for securing the appearance of its own witnesses at the hearing.
- 18.2. A Party shall notify the opposing Party which witnesses and experts it intends to call for cross-examination on the date specified in the Procedural Timetable. Shortly after the Parties' notifications, the Tribunal will indicate which witnesses or experts, not called by the Parties, it wishes to question, if any. In the event a witness or expert is not called for cross-examination by the opposing Party, they will not give oral evidence, unless the Tribunal chooses to call them.
- 18.3. The failure to cross-examine a witness or an expert or the partial cross-examination of a witness or an expert shall not imply an acceptance of the content of the corresponding witness statement or expert report. Each Party remains free to challenge the content of the witness statement or expert report by all available means of evidence and the Tribunal remains free to assess the probative value of the witness statement or expert report in its discretion.



Procedural Order No. 1

- 18.4. Witnesses and experts shall be examined by each Party under the control of the Tribunal. The Tribunal may examine the witness or expert at any time during the hearing. The Tribunal shall, at all times, have the power to request the presence of any fact or expert witness presented by the Parties for examination at the hearing, upon application by any Party or on its own motion. Witnesses shall make a declaration of truthfulness before the start of their examinations. Experts shall affirm that their opinion is in accordance with their sincere belief before the start of examination.
- 18.5. Direct examination is given in the form of witness statements and expert reports. However, the Party presenting the witness may conduct a direct examination lasting no longer than 10 minutes at the hearing limited to the content of their respective witness statements or expert reports and to any new facts which have become part of the record after the last pleading submitted by the Party calling the witness or expert. Experts may summarize their reports and findings, either through direct examination or in the form of a brief presentation. In lieu of direct examination, an expert may present his or her report to the Tribunal (potentially aided by a PowerPoint presentation), for no longer than 30 minutes. Any witness or expert called for direct examination may be cross-examined by the other Party and questioned by the Tribunal.
- 18.6. Being duly informed of the dates of the hearing, the Parties will as quickly as possible inform their potential fact witnesses of such dates to secure their presence at the hearing and avoid any disruption in the procedural timetable.
- 18.7. Witnesses (fact or expert) may be cross-examined on relevant matters that either were addressed or presented in the witness' statement(s) or the expert's report(s), or about any evidence in the record of which the fact witness could reasonably be expected to have personal knowledge and on matters of credibility. The scope of re-examination shall be strictly limited to the matters that have arisen in cross-examination.
- 18.8. The Tribunal may, after consultation with the Parties, request that witnesses or experts be examined jointly by the Members of the Tribunal during the hearing.
- 18.9. Experts shall be allowed in the hearing room, and shall be permitted access to the hearing transcripts, at any time.
- 18.10. Subject to paragraph 18.11 below, a fact witness may not be present in the hearing room (either physically or virtually) until they have testified but may remain after their testimony.
- 18.11. A fact witness who is also a party representative may be present at the hearing during the Parties' opening statements, but shall leave the hearing room after the Parties' opening statements until he or she is called to testify. A fact witness who is also a party representative shall be the first witness to be examined once the Party calling them presents their witnesses.

19. Pre-Hearing Organizational Meetings

*Arbitration Rule 31*

- 19.1. A pre-hearing organizational meeting 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, the Parties, and the Secretary of the Tribunal, and should 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 pre-hearing organizational meeting, 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. Following the pre-hearing organizational meeting, the Tribunal shall issue a procedural order reflecting the decisions made in preparation for the hearing.

20. Case Management Conferences

*Arbitration Rule 31*

- 20.1. The Tribunal may convene case management conferences with the Parties in accordance with ICSID Arbitration Rule 31 in order to (i) put in place a process to identify uncontested facts (e.g., through the submission of a joint chronology of facts); (ii) clarify and narrow the issues in dispute (e.g., by addressing tribunal questions, or submitting a decision tree, road map, matrix(es) and/or skeleton arguments); or (iii) address any other procedural or substantive issue related to the resolution of the dispute (e.g., the appointment of a Tribunal-appointed expert, or the production of evidence). The Tribunal may schedule the case management conference dates at its discretion, after consultation with the Parties.

21. Hearings

*Arbitration Rule 32*

- 21.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 21.2. The hearing may be held in-person or by any other means of communication as determined by the Tribunal after consultation with the Parties. An in-person hearing shall be held at a place to be determined in accordance with section 10 above.
- 21.3. Having due regard to the views of the Parties and the specific circumstances of the case, including any relevant travel or public health/security restrictions, the Tribunal may decide to hold a hearing remotely or in a hybrid form.
- 21.4. The date of the hearing shall be determined at a later stage.
- 21.5. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 21.6. Allocation of time and other procedural issues related to the hearing will be discussed by the Parties and the Tribunal during the pre-hearing conference call.

Procedural Order No. 1

21.7. In the absence of agreement to the contrary, and in accordance with ICSID Arbitration Rules 65(1) and (3), hearings shall be closed to the public, transcripts and recordings shall not be published, as provided under Procedural Order No. 2.

22. Recordings of Hearings and Sessions

*Arbitration Rule 29(4)(i)*

22.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the Parties and the Members of the Tribunal.

22.2. 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.

22.3. The process relating to transcripts shall be determined by the Tribunal in consultation with the Parties prior to the close of the Hearing. The Parties shall agree on the timing and method for corrections to the transcripts at the end of the hearing. In case of disagreement between the Parties, the Tribunal shall determine the timing and method for transcript corrections.

23. Post-Hearing Memorials and Statements of Costs

*Convention Article 44; Arbitration Rules 51*

23.1. In consultation with the Parties, the Tribunal will determine at the end of the hearing whether there shall be post-hearing briefs. If so, the Tribunal will address the time limits for preparing, and the length, format, and content of the post-hearing briefs. No new evidence may be produced together with the post-hearing briefs, except with leave from the Tribunal.

23.2. The Tribunal will issue directions on the Parties' statements of costs at the end of the hearing.

24. Transparency Matters

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

24.1. The Parties agree that the transparency regime governing these proceedings is dealt with in Procedural Order No. 2.

24.2. For the sake of clarity, the Parties' pleadings and written submissions, witness statements, expert reports, transcripts, documentary evidence and legal authorities (or excerpts thereof) shall not be subject to publication.

25. Data Privacy and Cybersecurity

25.1. The Members of the Tribunal, the Parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this arbitration proceeding.

- 25.2. The Members of the Tribunal, the Parties and their representatives agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in the arbitration proceeding, where necessary. Should compliance with applicable law require action from another participant in the arbitration proceeding, the Parties are invited to bring that to the attention of that other participant and/or to apply to the Tribunal for specific data protection measures to be put in place.
- 25.3. The Parties and their representatives shall ensure that the storage and exchange of the personal data processed in this arbitration is protected by way of appropriate technical and organizational safeguards.

26. Amicable Dispute Settlement

- 26.1. The Tribunal notes that the Parties may seek to reach an amicable settlement of all or part of the dispute, including through mediation under the ICSID Mediation Rules, at any time in the proceeding. If the Parties settle the dispute in full, they may request that the Tribunal records their settlement in its Award, pursuant to ICSID Arbitration Rule 55(2). Any agreement pursuant to ICSID Arbitration Rule 54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.

27. Miscellaneous

- 27.1 Without prejudice to applicable provisions of the ICSID Arbitration Rules, the Tribunal may take into consideration the International Bar Association Rules for the Taking of Evidence in International Arbitration (2020) and the International Bar Association Guidelines on Party Representation in International Arbitration (2013).

On behalf of the Tribunal,

[Signed]

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Sir Christopher Greenwood, GBE, CMG, KC  
President of the Tribunal  
Date: 11 September 2024

**Annex A – Electronic File Naming Guidelines**

Please follow these guidelines when naming electronic files and for the accompanying Consolidated Hyperlinked Index. The examples provided (in *italics*) are for demonstration purposes only and should be adapted to the relevant phase of the case.

All pleadings and accompanying documentation shall indicate the LANGUAGE in which they are submitted (e.g. SPA=Spanish; FR=French; ENG= English). Such indication should be reflected both i) in the name used to identify each individual electronic file and ii) in the Consolidated Hyperlinked Index (which shall be attached to each submission).

For cases with a single procedural language, the “LANGUAGE” designation may be omitted, except for documents in a language other than the procedural language and the corresponding translations.

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
<b>MAIN PLEADINGS</b>	<b>Title of Pleading–LANGUAGE</b>
	<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>
<b>SUPPORTING DOCUMENTATION</b>  Exhibits	<b>C-#### –LANGUAGE</b>
	<b>R-#### –LANGUAGE</b>
	To be produced sequentially throughout the case.
	<b>CLAIMANT’S FACTUAL EXHIBITS</b>
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	<b>RESPONDENT’S FACTUAL EXHIBITS</b>
	<i>R-0001-FR</i>
	<i>R-0002-SPA</i>
	Legal Authorities
<b>RL-#### –LANGUAGE</b>	
To be produced sequentially throughout the case.	
<b>CLAIMANT’S LEGAL AUTHORITIES</b>	
<i>CL-0001-ENG</i>	
<i>CL-0002-FR</i>	
<b>RESPONDENT’S LEGAL AUTHORITIES</b>	
<i>RL-0001-SPA</i>	
<i>RL-0002-ENG</i>	
Witness Statements	<b>Witness Statement-Name of Witness-Name of Submission- LANGUAGE</b>
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</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>

*Fotowatio Renewable Ventures S.L.U., FRV Solar Holdings III, S.L.U., and  
FRV Solar Holdings VI, S.L.U. v. United Mexican States  
(ICSID Case No. ARB/24/5)*

Procedural Order No. 1 – Annex A

	<i>Expert Report-Lucia Smith-Valuation-Reply on Quantum-[Second Report]- ENG</i>	
Legal Opinions	<b><i>Legal Opinion-Name of Expert-Name of Submission-LANGUAGE</i></b>	
	<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	<b>WITNESS/EXPERT INITIALS -###</b>	
	<i>For exhibits filed with the Witness Statement of [Maria Jones] MJ-0001 and see paragraph 16.7</i>	
	<i>For exhibits filed with the Legal Opinion of [Tom Kaine] TK-0001</i>	
	<i>TK-0002</i>	
	<i>For exhibits filed with the Expert Report of [Lucia Smith] LS-0001</i>	
	<i>LS-0002</i>	
	<b>INDICES</b>	<b>Consolidated Hyperlinked Index</b>
		<b>Index of Exhibits-C-##### to C-#####</b>
	<i>Index of Exhibits-C-0001 to C-0023</i>	
	<b>Index of Legal Authorities-RLA-#### to RLA-####</b>	
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>	
<b>OTHER APPLICATIONS</b>	<b>Name of Application-[Party]-LANGUAGE</b>	
	<i>Preliminary Objections under Rule 41(5)-SPA</i>	
	<i>Request for Bifurcation-ENG</i>	
	<i>Request for Provisional Measures-[Respondent]-SPA</i>	
	<i>Request for Production of Documents-[Claimant]-SPA</i>	
	<i>Request for Stay of Enforcement-FR</i>	
	<i>Request for Discontinuance-[Claimant]-ENG</i>	
	<i>Post-Hearing Brief-[Claimant]-SPA</i>	
	<i>Costs Submissions-[Respondent]-ENG</i>	
<i>Observations to Request for [XX]-[Claimant]-SPA</i>		

**Annex B – Procedural Timetable**

<b>Procedural Step</b>	<b>By</b>	<b>Time Interval from previous step</b>
First Session	All	
Memorial	Claimants	120 days from First Session
Counter-Memorial	Respondent	120 days from Memorial
Requests for Production of Documents	Parties	21 days from Counter-Memorial
Responses and/or Objections to Requests for Production of Documents and Voluntary Production of Documents	Parties	14 days from Requests for Production of Documents
Replies to Objections to Requests for Production of Documents	Parties	14 days from Responses
Decision on Objections to Requests for Production of Documents	Tribunal	28 days from Replies to Objections
Production of Documents ordered by Tribunal	Parties	14 days from Decision on Objections
Reply	Claimants	90 days from Decision on Production of Documents
Rejoinder	Respondent	90 days from Reply
Parties to identify witnesses and experts for cross-examination	Parties	TBD
Pre-hearing Conference	Parties and Tribunal	TBD
Hearing	Parties and Tribunal	TBD
Post-Hearing Submissions	Parties	TBD
Cost Statements	Parties	TBD

**Annex C – Redfern Schedule**

<b>Document Request No.</b>	
<b>Identification of documents or category of documents requested</b>	
<b>Relevance and materiality according to requesting party, including reference to submissions</b>	
<b>Responses and/or Objections by disputing party to production of requested documents</b>	
<b>Reply to objections</b>	
<b>Decision of the Tribunal</b>	