

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

**ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria
B.V.
(Claimants)**

v.

**Bolivarian Republic of Venezuela
(Applicant)**

**(ICSID Case No. ARB/07/30)
Annulment Proceeding**

PROCEDURAL ORDER NO. 2

Members of the ad hoc Committee

Judge Dominique Hascher, President of the *ad hoc* Committee
Prof. Diego Fernández Arroyo, Member of the *ad hoc* Committee
Mr. Kap-You (Kevin) Kim, Member of the *ad hoc* Committee

Secretary of the ad hoc Committee

Mr. Francisco Grob

Date: September 29, 2021

I. PROCEDURAL HISTORY

1. On November 16, 2020, the Committee, after consultation with the parties, confirmed that the Hearing on Annulment would take place the week of October 25, 2021.
2. On August 3, 2021, the Committee proposed to hold the Hearing on Annulment by videoconference and invited the parties to confer and agree on a schedule.
3. Following receipt of the parties' proposals, on August 17, 2021, the Committee informed the parties the order in which the oral submissions would be heard.
4. On 27 August 2021, the Secretary of the Committee circulated a draft of the present procedural order concerning the organization of the Hearing, to which the parties provided their comments on 13 September 2021.
5. Having considered the parties' positions, this Order sets out the procedural rules that the parties have agreed upon and/or the Committee has determined will govern the conduct of the Hearing.

II. ORDER

A. Date

6. The Hearing shall take place on **October 25–29, 2021**.

B. Format and Virtual Platform

7. The Hearing shall be held by videoconference via Zoom. The Zoom platform will be operated by an external service provider retained by ICSID to supply hosting for the sessions, recording services and technical support.
8. The details and link of the Hearing will be provided by ICSID in due course.

C. Agenda

9. To accommodate the time zones of all hearing participants, the Hearing will begin at 8:00 AM EDT on each day.
10. The Hearing will follow the schedule and structure envisaged in the Hearing Agenda attached as **Annex A**.
11. The Agenda may be amended by the Committee during the course of the Hearing, on account of any delay or interruption due to technical difficulties.
12. The Secretariat will keep the time, under the direction of the Committee, and will advise the parties of the total daily time used.

D. Documents for Use at the Hearing

1. Electronic Hearing Bundle

13. The parties shall prepare a joint electronic hearing bundle, which will contain all pleadings, witness statements, exhibits, and legal authorities, with a unified hyperlinked index. This bundle shall be uploaded by the parties to a designated sub-folder in the BOX files sharing platform by 20 October 2021. To ensure operation of the hyperlinked index in BOX, if feasible, the entire Electronic Hearing Bundle shall be housed within one folder and then uploaded to BOX as a single zip file. Should the size of the single zip file make uploading it to BOX not

possible, the parties may simply create an Electronic Hearing Bundle folder in the BOX filesharing platform within which the unified hyperlinked index is uploaded alongside sub-folders including all relevant files.

14. The parties' pleadings and the unified hyperlinked index, to the extent possible, shall be text searchable (i.e., OCR PDF or Word), rotated so it can be read horizontally on a computer screen, and should include a table of contents where applicable. PDF files of the parties' pleadings and the unified hyperlinked index should also include bookmarks for headings and subheadings.

2. Demonstrative Exhibits

15. The parties may make use of demonstrative exhibits in support of oral arguments, provided they do not contain materials not in the record.
16. Section 15.6 of Procedural Order No. 1 shall apply except that no hard-copy slide presentations for use at the hearing need be circulated. The parties are reminded that "demonstrative exhibits (such as PowerPoint slides, charts tabulations, etc.) may be used at any hearing, provided they contain no new evidence." The presentation of any evidence, authority or demonstrative exhibit shall be made through the screen-sharing function of the Zoom videoconference platform allowing the speaker and the corresponding document to be viewed simultaneously.
17. Electronic copies of each demonstrative shall be distributed by the party intending to use it, to the opposing party, the Secretariat, the Committee and the court reporters and interpreters, no later than 15 minutes prior to the respective argument, in text-searchable PDF format.
18. Demonstrative exhibits shall indicate the source of the information contained therein through references to the record.
19. Promptly after the conclusion of the Hearing day in which the corresponding demonstrative exhibit is used, the parties shall upload each demonstrative exhibit to the BOX electronic file sharing system, with the required CD-__ or RD-__ number.

E. Audio Recording and Transcripts

20. Pursuant to Section 18 of Procedural Order No. 1, audio and video recordings will be made of the Hearing as well as verbatim transcripts in English and Spanish that can be subject to corrections.
21. ICSID will arrange for the audio and video recordings of the Hearing through an external service provider retained by ICSID to manage the hosting and recording services for the virtual Hearing.
22. The audio and video recording shall be arranged by the ICSID Secretariat and will be shared with the parties and the Members of the Committee at the conclusion of the Hearing. Hearing Participants shall not otherwise record, via audio, video or screenshot the Hearing or any part of it.
23. The Hearing Participants shall have real-time access to the transcripts through an online connection provided by the court reporters. The details to access the transcript shall be provided by ICSID before commencement of the pre-Hearing trial run, and again before commencement of the first Hearing day.
24. Electronic versions of the transcripts will be circulated by e-mail to the parties, the Secretariat, and the Committee, at the end of each Hearing day.

F. Post-Hearing Briefs

25. As set out in Procedural Order No. 1, issues related to post-hearing briefs and statements of costs shall be discussed at the close of the respective oral hearing.

G. Virtual Hearing Protocols

1. Pre-Hearing Trial Run

26. Trial runs of the video conferencing system (including presentations and real-time transcript feeds) with the participants will be conducted on a date to be agreed.
27. To ensure the efficient conduct of the trial run, all participants shall strive to replicate the conditions under which they will participate in the Hearing. To the extent possible, at least one participant per device or connection to be used at the Hearing should attend the trial runs.

2. Participants

28. Each party shall provide a list of the persons who will attend the Hearing by no later than **20 October 2021**, using the format in **Annex B (“List of Participants”)**.
29. The List of Participants shall: (i) include the user name, e-mail and/or telephone number that each participant will use in the videoconference; (ii) designate the speakers (“**Active Participants**”) for each party, and identify the others as “**Passive Participants**”; (iii) indicate the location from which each of their participants (including counsel and party representatives) will join the videoconference; (iv) indicate if several participants will use one and the same camera/connection; and (v) all participants shall denote their names and affiliation when connecting to Zoom. Example: “Jane Doe (ICSID)”.
30. Access to the videoconference shall be restricted to the participants mentioned in the List of Participants. Any person not included in the List of Participants shall not be admitted, unless otherwise decided by the Committee upon request of either party. All Hearing participants bear an ongoing duty to warn of the presence of any other person on the videoconference.
31. Participants shall join the videoconference 15 minutes in advance of the start of the relevant Hearing day, to facilitate their identification and deal with any technical contingencies.
32. Participants will join the videoconference through a “*waiting room*” managed by the external provider retained by ICSID to provide virtual *hosting* services. After having been identified, participants will be assigned to the appropriate “*breakout room*” until the Hearing commences. Once admitted to the videoconference, and barring technical issues or other exceptional circumstances, Participants should remain connected throughout the Hearing day, including breaks.

3. Internet Connection and Devices

33. The parties are responsible for ensuring connection to the videoconference through a stable internet connection offering sufficient bandwidth and use of a camera, microphone, and speaker of adequate quality. Non-secure, public Wi-Fi, for example, should not be used.
34. The virtual platform will offer participants a dial-in telephone audio option, which shall be used as a default connection mechanism in the event that any participant experiences difficulties with computer connection or connection to the Zoom videoconference platform.

4. Videoconference Etiquette

35. All Participants shall mute their audio feature, except where they shall intervene orally. The external service provider shall have the authority to mute Participants, if the Committee deems it necessary to improve audio quality.
36. Committee members will have the video function enabled at all times. In order to preserve internet bandwidth and maintain an optimal connection, Active Participants should have the video function enabled only when presenting, speaking, or intervening orally, and all other Participants should have their video feature disabled. The use of the video function shall be optional for all Participants when in breakout rooms.
37. To facilitate the accurate transcription of the Hearing, speakers shall speak slowly and with pauses between phrases.
38. Participants should join the Hearing from a location without background noise and with adequate lighting. Active Participants should avoid sitting with a window or source of light behind them and should not use a virtual background.

5. Break-Out Rooms and Team Communication

39. During the Hearing breaks, the parties shall make use of the “*breakout room*” feature within the videoconference platform to avoid delays associated with admitting participants to the videoconference and to enable to promptly reconvene all participants following breaks.
40. In the List of Participants (**Annex B**), the parties shall clearly designate the “*breakout room*” which the relevant participant should be assigned to, using C (for Claimants’ Room) and A (for Applicant’s Room).
41. Each party shall make its own arrangements for private communication within its team during the Hearing by instant messenger or other appropriate means. Zoom’s chat feature shall only be used to communicate with ICSID and the external service provider’s technical support team.

6. Technical Difficulties

42. In the List of Participants, each party shall designate one of its representatives to act as the contact person in case of an emergency during the videoconference (“**Technical Emergency Contact**”). This person shall be in charge of communicating with the external service provider’s technical support team to fix any technical issue that might arise. Each Party’s Technical Emergency Contact shall be responsible for advising the Committee and ICSID if an essential participant on his/her side is disconnected or otherwise cannot participate.
43. The Committee may temporarily or permanently suspend the Hearing if it considers that the functioning of the videoconference system is inadequate or likely to prejudice the due process rights of either of the parties or the integrity of the proceeding. The parties are requested to bear in mind that the audio recording and the transcripts will be available to mitigate any prejudice arising from the failure of any given participant to be able to follow the entire Hearing on the videoconference platform.

[signed]

Judge Dominique Hascher
President of the Committee
(On behalf of the Committee)

ANNEX A

Hearing Agenda

Day 1: Monday, October 25, 2021

EST	PROCEDURAL STEP
8:00 AM	Welcome/housekeeping (20 minutes)
8:20 AM	Oral Submission – Bolivarian Republic of Venezuela - Curtis, Mallet-Prevost, Colt & Mosle (70 minutes)
9:30 AM	Break (10 minutes)
9:40 AM	Oral Submission – Bolivarian Republic of Venezuela - Curtis, Mallet-Prevost, Colt & Mosle (90 minutes)
11:10 AM	Break (10 minutes)
11:20 AM	Oral Submission – Bolivarian Republic of Venezuela - Curtis, Mallet-Prevost, Colt & Mosle (80 minutes)
12:40 PM	End of Day 1

Day 2: Tuesday, October 26, 2021

EST	PROCEDURAL STEP
8:00 AM	Housekeeping (15 minutes)
8:15 AM	Oral Submission – Bolivarian Republic of Venezuela - De Jesús & De Jesús (70 minutes)
9:25 AM	Break (10 minutes)
9:35 AM	Oral Submission – Bolivarian Republic of Venezuela - De Jesús & De Jesús (90 minutes)
11:05 AM	Break (10 minutes)
11:15 AM	Oral Submission – Bolivarian Republic of Venezuela - De Jesús & De Jesús (80 minutes)
12:35 PM	End of Day 2

Day 3: Wednesday, October 27, 2021

EST	PROCEDURAL STEP
8:00 AM	Housekeeping (15 minutes)
8:15 AM	Oral Submission – ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. (70 minutes)
9:25 AM	Break (10 minutes)
9:35 AM	Oral Submission – ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. (90 minutes)
11:05 AM	Break (10 minutes)
11:15 AM	Oral Submission – ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. (80 minutes)
12:35 PM	End of Day 3

Day 4: Thursday, October 28, 2021

EST	PROCEDURAL STEP
8:00 AM	Housekeeping (15 minutes)
8:15 AM	Rebuttal Statements – Bolivarian Republic of Venezuela - Curtis, Mallet-Prevost, Colt & Mosle (75 minutes)
9:30 AM	Break (10 minutes)
9:40 AM	Rebuttal Statements – Bolivarian Republic of Venezuela - Curtis, Mallet-Prevost, Colt & Mosle (45 minutes)
10:25 AM	Break (5 minutes)
10:30 AM	Rebuttal Statements – Bolivarian Republic of Venezuela - De Jesús & De Jesús (75 minutes)
11:45 AM	Break (10 minutes)
11:55 AM	Rebuttal Statements – Bolivarian Republic of Venezuela - De Jesús & De Jesús (45 minutes)
12:40 PM	End of Day 4

Day 5: Friday, October 29, 2021

EST	PROCEDURAL STEP
8:00 AM	Housekeeping
8:15 AM	Rebuttal Statement – ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. (75 minutes)
9:30 AM	Break (10 minutes)
9:40 AM	Rebuttal Statements – ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. (45 minutes)
10:25 AM	Break (30 minutes)
10:55 AM	Committee’s Questions and Post-hearing Matters (90 minutes)
12:25 PM	End of Day 5

ANNEX B

LIST OF PARTICIPANTS

COMMITTEE					
Room	Name	Role	Affiliation to Case	Location of Connection	Personal Contact (Optional)
T	[T] –Dominique Hascher	A	President	Office [City]	Email:
T	[T] – Diego Fernández Arroyo	A	Member	Office [City]	Email:
T	[T] – Kap-You (Kevin) Kim	A	Member	Office [City]	Email:

SECRETARY OF THE TRIBUNAL					
Room	Name	Role	Affiliation to Case	Location of Connection	Personal Contact
T	[T] – Gonzalo Flores	A	Secretary of the Tribunal	Home [City]	Email: Phone:

ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V.					
Room	Name	Role¹ (A/P)	Affiliation to Case	Location of Connection	Personal Contact
	<i>Counsel:</i>				
C	[C] –Name Last name				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:
C	[C] –				Email: Phone:

¹ Use “A” for Active Participants and “P” for Passive Participants.

	Party Representative:				
C	[C] – Name Last name				

De Jesús & De Jesús					
Room ³	Name	Role (A/P)	Affiliation to Case	Location of Connection	
	Counsel:				
A/D	[R] –Name Last name				Email: Phone:
A/D	[R] –Name Last name				Email: Phone:
A/D	[R] –Name Last name				Email: Phone:
A/D	[R] –Name Last name				Email: Phone:
A/D	[R] –Name Last name				Email: Phone:
A/D	[R] –Name Last name				Email: Phone:
A/D	[R] –Name Last name				Email: Phone:
A/D	[R] –Name Last name				Email: Phone:

Curtis, Mallet-Prevost, Colt & Mosle					
Room ³	Name	Role (A/P)	Affiliation to Case	Location of Connection	
	Counsel:				
A/C	[R] –Name Last name				Email: Phone:
A/C	[R] –Name Last name				Email: Phone:
A/C	[R] –Name Last name				Email: Phone:
A/C	[R] –Name Last name				Email: Phone:
A/C	[R] –Name Last name				Email: Phone:
A/C	[R] –Name Last name				Email: Phone:
A/C	[R] –Name Last name				Email: Phone:
A/C	[R] –Name Last name				Email: Phone:

COURT REPORTERS				
Room	Name and Contact	Role	Affiliation	Location of Connection
N/A		P		[City]
N/A		P		

INTERPRETERS				
Room	Name and Contact	Role	Affiliation to Case	Location of Connection
N/A	[INT] – Name Lastname [Email/Phone]	P	Interpreter	[City]
N/A		P	Interpreter	[City]
N/A		P	Interpreter	[City]

TECHNICAL SUPPORT STAFF				
Room	Name	Role	Affiliation to Case	Location of Connection
N/A	[IT] –Name Lastname [Email]	P	Sparq	Sparq
N/A		P	Paralegal, ICSID	Home [City]
N/A		P	IT FROM THE LAW FIRM	[City]
N/A		P		[City]