

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER CHAPTER 10 OF THE
UNITED STATES - PERU TRADE PROMOTION AGREEMENT AND
THE UNCITRAL ARBITRATION RULES (2010)**

**THE RENCO GROUP, INC. v. REPUBLIC OF PERU
(UNCT/13/1)**

PROCEDURAL ORDER NO. 1

Mr. Michael J. Moser, Presiding Arbitrator
The Honourable Mr. L. Yves Fortier, CC, QC, Arbitrator
Mr. Toby T. Landau, QC, Arbitrator

Secretary of the Tribunal
Ms. Natalí Sequeira

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Introduction

The first session of the Arbitral Tribunal was held on July 18, 2013, at London, England.

Present at the session were:

Members of the Tribunal:

Mr. Michael J. Moser, Presiding Arbitrator
The Honourable Mr. L. Yves Fortier, CC, QC, Arbitrator
Mr. Toby T. Landau, QC, Arbitrator

ICSID Secretariat:

Ms. Natalí Sequeira, Secretary of the Tribunal

Assistant to The Honourable Mr. L. Yves Fortier CC, QC:

Ms. Annie Lespérance¹

Attending on behalf of the Claimant:

Mr. Dennis A. Sadlowski, The Renco Group, Inc.
Mr. Edward G. Kehoe, King & Spalding LLP
Mr. Henry G. Burnett, King & Spalding LLP

Attending on behalf of the Respondent:

Mr. Carlos José Valderrama, Ministry of Economy and Finance of the Republic of Peru
Mr. Jonathan C. Hamilton, White & Case LLP
Ms. Andrea J. Menaker, White & Case LLP
Mr. Maricarmen Tovar Gil, Estudio Ehecopar
Mr. Jacob S. Stoehr, White & Case LLP
Mr. Alejandro Manrique, Embassy of Peru in the United Kingdom

The Presiding Arbitrator opened the session at 9:00 a.m. and welcomed the participants. The Presiding Arbitrator introduced the Tribunal and the Secretary of the Tribunal (Tribunal Secretary) and invited the Parties to introduce their respective representatives.

The Tribunal and the Parties considered the following:

- The Draft Agenda and Procedural Order circulated by the Tribunal Secretary on May 23, 2013; and

¹ Attending the hearing as observer.

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- The comments on the Draft Procedural Order submitted by the Parties on June 28, July 14, July 17, July 27, July 29 and July 31, 2013.

An audio recording of the session was made and deposited in the archives of ICSID. The recording was subsequently distributed to the Members of the Tribunal and the Parties.

Following the session, the Tribunal now issues the present order:

Order

This Procedural Order No. 1 sets out the Procedural Rules that govern this arbitration. The corresponding Procedural Schedule is attached as Annex A.

1. Applicable Arbitration Rules

- 1.1. These proceedings are conducted in accordance with the UNCITRAL Arbitration Rules, as revised in 2010, except as modified by Chapter Ten of the United States - Peru Trade Promotion Agreement signed on April 12, 2006 (the “Treaty”) and the provisions of this Procedural Order No.1.

2. Constitution of the Tribunal and Tribunal Members’ Declarations

- 2.1. The Tribunal was constituted on April 8, 2013 in accordance with the Treaty and the UNCITRAL 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 Article 11 of the UNCITRAL Arbitration Rules. Copies of these declarations were distributed to the Parties by ICSID on May 13, 2013.

3. Fees and Expenses of Tribunal Members

- 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 of ICSID Arbitrators in force at the time the fees and expenses are incurred.
- 3.2. Under the current Schedule of Fees, each Tribunal Member receives:

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- 3.2.1. US\$3,000 for each day of meetings or each eight hours of other work performed in connection with the proceedings or *pro rata*; and
 - 3.2.2. subsistence allowances, reimbursement of travel, and other expenses pursuant to ICSID Administrative and Financial Regulation 14.
 - 3.3. Each Tribunal Member shall submit his claims for fees and expenses to the ICSID Secretariat on a quarterly basis.
 - 3.4. Non-refundable expenses incurred in connection with a hearing as a result of a postponement or cancellation of the hearing shall be reimbursed.
 - 3.5. Each Member of the Tribunal shall receive a fee equivalent to 50% of hearing time, reserved but not used, due to the postponement or cancellation of a hearing at the request of one or both Parties less than 30 days prior to commencement of the hearing.²
4. Decisions of the Tribunal
 - 4.1. The presence in person of all members of the Tribunal shall be necessary to constitute a quorum for all sittings of the Tribunal, without prejudice to the Parties agreeing otherwise.
 - 4.2. Decisions of the Arbitral Tribunal shall be made by a majority of the arbitrators. In the case of questions of procedure, when there is no majority or when the Arbitral Tribunal so authorizes, the Presiding Arbitrator may decide alone, subject to revision, if any, by the Arbitral Tribunal.
 - 4.3. The Tribunal's rulings on procedural matters may be communicated to the Parties through the established distribution method in the form of a letter or email.
5. Administering Authority
 - 5.1. On April 22, 2013, the Parties confirmed the agreement of the Parties to the designation of the International Centre for Settlement of Investment Disputes (ICSID), as the Administering Authority. ICSID shall render full administrative services in relation to this arbitration similar to those rendered in arbitrations under the ICSID Additional Facility Rules. The cost of ICSID's services shall be included in the costs of the arbitration.

² As agreed and informed by the Parties to the Administering Authority on August 2, 2013.

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- 5.2. The Tribunal Secretary is Natalí Sequeira, Legal Counsel, ICSID, or such other person as ICSID may designate.
- 5.3. To send copies of communications by email, mail, and courier/parcel deliveries to the ICSID Secretariat, the contact details are:

Natalí Sequeira
ICSID - The World Bank Group
MSN J2-200
1818 H Street, N.W.
Washington, D.C. 20433
U.S.A. Tel.: + 1 (202) 458-8575
Fax: + 1 (202) 522-2615
Email: nsequeira@worldbank.org

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

Natalí Sequeira
701 18th Street, N.W. (“World Bank J Building”)
2nd Floor
Washington, D.C. 20006
Tel.: + 1 (202) 458-8575

6. Representation of the Parties

- 6.1. Each Party shall be represented by its respective counsel listed below and may designate additional persons by promptly notifying the Tribunal and the Tribunal Secretary of such designation, as provided for in Article 5 of the UNCITRAL Arbitration Rules.

For Claimant

Mr. Edward G. Kehoe
Mr. Guillermo Aguilar Alvarez
Mr. Henry G. Burnett
Ms. Caline Mouawad
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For Respondent

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Mr. Eduardo Ferrero Costa
Ms. Maricarmen Tovar Gil
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Mariadelcarmen.Tovar@bakermckenzie.com

7. Deposits of Costs

- 7.1. As provided in Article 43 of the UNCITRAL Arbitration Rules, the Arbitral Tribunal may request the Parties to deposit an equal amount as an advance for the costs referred to in Article 40(2)(a), (b) and (c) of those Rules. Payment by the Parties of this deposit shall be without prejudice to the final decision of the Tribunal as to the allocation of such costs pursuant to Article 42 of the UNCITRAL Rules.
- 7.2. By letter of May 8, 2013, ICSID requested that each Party pay US\$175,000 to defray the initial costs of the proceeding. ICSID received the Claimant's payment on May 27, 2013 and the Respondent's payment on June 17, 2013.
- 7.3. The Arbitral Tribunal may request supplementary deposits from the Parties as needed. Such requests will be accompanied by an interim statement of account providing details of the direct costs of the proceeding, including the global fees and expenses of all arbitrators.
- 7.4. After a termination order or final award has been made, the Arbitral Tribunal shall render an accounting to the Parties of the deposits received and return any unexpended balance to the Parties.

8. Place of Arbitration

- 8.1. The place of the arbitration shall be Paris, France. The location of hearings shall be Washington, D.C. The Tribunal may designate alternate locations for hearings (in the Americas, Paris or otherwise) if it so decides further to consultation with the Parties.
- 8.2. Unless otherwise agreed by the Parties, the Arbitral Tribunal may meet at any location it considers appropriate for deliberations.

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9. Procedural Languages, Translation and Interpretation

- 9.1. The procedural languages of the arbitration shall be English and Spanish, further to the rules set out below.
- 9.2. Correspondence among the Parties, the Tribunal and the ICSID Secretariat shall be in English.
- 9.3. In accordance with the bilingual nature of the proceeding, submissions shall be made as follows:
 - (a) Pleadings, witness statements, and expert reports (together the “Main Documents”) in both procedural languages, one language on the Filing Date of the submission (as defined below) and a translation into the other procedural language (the “Translations”) submitted on the Supplemental Filing Date (according to the schedule provided in §11).
 - (b) Exhibits, legal authorities, and annexes (together, the “Supporting Documents”) may be submitted in any language. For the convenience of the Tribunal, any Supporting Document provided in a language other than English shall be translated into English with respect to the specific relevant part thereof. The Tribunal may require a fuller or a complete translation at the request of any Party or on its own initiative.
 - (c) The governing language of documents (including witness statements, expert reports, and Supporting Documents) shall be the original language of the document; provided that, for the convenience of the Tribunal, the governing language of the pleadings shall be English.
- 9.4. The Production of Documents shall be conducted through correspondence in English and documents shall be produced solely in their original language without the need for translation.
- 9.5. Translations need not be certified unless there is a dispute as to the content of a translation.
- 9.6. The testimony of a witness or expert called for examination who testifies in one of the procedural languages shall be interpreted simultaneously into the other procedural language, with ICSID arranging for suitable interpreters. The testimony of a witness or expert called for examination who testifies in any other language shall be interpreted simultaneously into English and Spanish, with ICSID arranging for suitable interpreters.

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- 9.7. The Parties will notify the Tribunal, as soon as practicable, and no later than at the pre-hearing organizational meeting (see §17 below), which witnesses or experts require interpretation.
 - 9.8. The costs of the interpreter(s) will be paid from the deposit made by the Parties, without prejudice to the decision of the Tribunal as to the allocation of costs.
 - 9.9. The Tribunal shall make routine procedural orders in English.
 - 9.10. The Tribunal shall render any Decision or Award in English with a certified translation into Spanish.
10. Routing of Written Communications
- 10.1. The Secretary (as designated by the Administering Authority) shall be the channel of written communications including routine, administrative, or procedural correspondence between the Parties and the Tribunal. The following protocols shall be observed:
 - 10.1.1. 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.
 - 10.1.2. 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.
 - 10.1.3. 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.
 - 10.1.4. The Parties may communicate directly with the Tribunal for exceptional and urgent purposes, with a copy to the Tribunal Secretary. A copy of any communication by a Party to the Arbitral Tribunal shall be simultaneously transmitted to the other Party by the same means.
 - 10.2. The Secretary (as designated by the Administering Authority), using the electronic resources of the Administering Authority, shall maintain an FTP site to maintain correspondence files and submissions of the proceeding. Only the Tribunal, ICSID, counsel, and the Parties shall have access to the site which shall be through password protection.
 - 10.3. All notifications and communications to a Party shall be sent to its respective address set forth in section 6.1.

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10.4. All communications to the Arbitral Tribunal shall be sent to each arbitrator's address set forth in section 11.4.

11. Number of Copies and Method of Filing of Parties' Pleadings

11.1. Electronic Submission of Main Documents. On the relevant filing date (the "Filing Date"), a Party shall submit by electronic mail (pursuant to the routing mechanism established above in § 10) an electronic version of the Main Documents.³

11.2. Further Submission. On the supplemental filing date (the "Supplemental Filing Date"), seven (7) days after the Filing Date, a Party shall submit (pursuant to the routing mechanism established above in § 10):

(a) a transmittal letter by electronic mail;

(b) hard copies of the following materials: Main Documents, Supporting Documents (excluding international legal authorities) and Translations (as required by § 9);

(c) electronic versions of all Main Documents, Supporting Documents (including international legal authorities) and Translations on a USB drive.

11.3. Filing Mechanisms. The materials submitted on the Supplemental Filing Date shall be distributed as follows:

11.3.1. To the Centre: one (1) unbound hard copy in A4 format;⁴ one (1) hard copy in Letter format; and two (2) USB drives.

11.3.2. To each Member of the Tribunal: one (1) hard copy in A5, double-sided format; and one (1) USB drive.

11.3.3. To the opposing Party: two (2) hard copies in A4 format; and one (1) USB drive. For Respondent's filings, one copy shall be sent to King & Spalding's New York office and the other copy shall be sent to King & Spalding's Houston office. For Claimant's filings, both copies shall be sent to White & Case's office in Washington, D.C.

³The Parties take note that the World Bank server does not accept emails larger than 10MB.

⁴The A4/Letter format is required for ICSID's archiving.

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11.4. The Members of the Tribunal's addresses are as follows:

Mr. Michael J. Moser Level 8, Two Exchange Square 8 Connaught Place, Central Hong Kong SAR China Tel. (852) 2168 0809 Email: mmoser@20essexst.com, arbitrator@michaelmoser.com	The Honourable Mr. L Yves Fortier, CC, QC Cabinet Yves Fortier 1 Place Ville Marie Bureau 2822 Montréal, Québec H3B 4R4 Canada Tel. + 1 514 286 2011 Email: yves.fortier@YFortier.ca	Mr. Toby T. Landau, QC Essex Court Chambers 24 Lincoln's Inn Fields London WC2A 3EG United Kingdom Tel: +44 207 8138000 Email: tlandau@essexcourt.net
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11.5. Electronic versions of the Main Documents of a pleading shall be text searchable where practicable (i.e., OCR PDF or Word).

11.6. At the time of the pre-hearing conference, the Tribunal shall discuss with the Parties whether it requires further materials for the hearing.

11.7. The official date of receipt of a pleading or communication shall be the day on which the electronic version is sent pursuant to the routing mechanism established in § 10 above.

11.8. A filing shall be deemed timely if sent by a Party by 11:59 p.m., Washington, D.C. time, on the relevant date.

12. Procedural Schedule

12.1. The Parties agree that the proceeding shall be divided into phases. The Procedural Schedule for phases and submissions shall be as set forth in Annex A, with respect to issues other than quantum.

12.2. Each pleading shall include all factual and legal arguments in support thereof. The pleadings shall be successive in nature and each pleading shall be responsive to the prior pleading by the opposing Party.

13. Document Production

13.1. Articles 3 and 9 of the International Bar Association Rules on the Taking of Evidence in International Arbitration (2010) may guide the Tribunal and the Parties regarding document production in this case.

13.2. Every request for production of documents shall precisely identify each

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document, or category of documents, sought and establish its relevance and materiality to the outcome of the case. Such a request shall not be copied to the Tribunal or the Tribunal Secretary.

- 13.3. Each Party shall state in writing its responses or objections to the requested documents with reference to the objections listed in Article 9(2) of the IBA Rules. The requesting Party shall file its comments in writing on any response or objection made to document requests with respect to any outstanding disputes relating to such requests with the Tribunal, with a copy to the other Party (in both Word and PDF formats).
- 13.4. The request, responses or objections to the request, the reply to the responses or objections to the request, and the Tribunal's decisions referred to in this Section shall be recorded in a joint schedule in the form attached as Annex B hereto. For the avoidance of doubt, each Party must complete each column applicable to that Party with respect to each request (excluding column 6, which is reserved for the Tribunal), for example rather than leaving blank specific relevance and material comments for each request. Nothing herein prohibits a Party from cross-referencing information in a column related to one request to a column related to another request.

14. Non-Disputing Party Submissions and Amicus Curiae

- 14.1. The Tribunal shall have the authority to consider *amicus curiae* submissions. A petition to submit *amicus curiae* shall be submitted pursuant to the Procedural Schedule in Annex A in electronic format to the Secretary of the Tribunal along with eight (8) hard copies and distributed to the Tribunal and the Parties. The procedure with respect to *amicus curiae* shall be handled as follows:
- (a) A petition shall meet the following requirements: (i) be no more than 5 pages; (ii) be presented in English and Spanish; (iii) disclose any affiliation with the Parties; (iv) specify the interest the applicant has in the arbitration; (v) identify the issues of fact or law addressed in a written submission and why the applicant can bring perspective or insight distinct from the Parties; (vi) attach the written submission; and (vii) identify any prior writings related to this arbitration, any of the Parties, or entities related to the Parties, the La Oroya Metallurgical Complex, the Treaty, or any material dealings prior to this proceeding with the Parties or its counsel.
 - (b) The written submission shall be in English and Spanish and no more than 30 pages (including exhibits). The written submission shall identify the author and any person or entity that has provided, or will provide, any financial or other assistance in preparing the submission.

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- (c) After providing the Parties an opportunity to comment on any *amicus curiae* petition, the Tribunal shall rule on its admissibility.
 - (d) The Parties may comment on any *amicus curiae* submissions in subsequent pleadings. The Tribunal may consider such *amicus curiae* submissions, but is not required to do so.
- 14.2. The Procedural Schedule shall also take into account the possibility that the non-disputing State Party may make submissions regarding the interpretation of the Treaty, as accounted for in the Procedural Schedule.
- 15. Evidence: Witnesses and Experts, Written Statements and Reports, Supporting Documentation
 - 15.1. Each Party shall submit together with its respective pleading all of the evidence, in whatever form, including documentary exhibits, written witness statements, and expert opinions or reports upon which it relies. In their second written submissions, the Parties shall include only additional facts, written witness testimony, expert opinion testimony, documents or other evidence that responds to or rebuts matters raised by the other Party's prior written submission, unless new facts have arisen and subject to documents that may be produced during document production.
 - 15.2. Neither Party shall be permitted to submit additional or responsive documents, including legal authorities, outside of the submission schedule, including after the filing of its respective last pre-hearing written submission, absent a showing of good cause through a petition to the Tribunal and as determined by the Tribunal, unless produced upon order of the Tribunal. A Party attempting to submit such additional documents may not annex the documents when it makes its request to show good cause, and the other Party shall be afforded an opportunity to comment on any such request.
 - 15.3. The Tribunal may call upon the Parties to produce documents or other evidence in accordance with Article 24 of the UNCITRAL Arbitration Rules.
 - 15.4. The documents shall be submitted in the following form:
 - 15.4.1. Exhibits shall be numbered consecutively throughout these proceedings.
 - 15.4.2. The number of each Exhibit containing a document produced by Claimant shall be preceded by the letter "C" for documentary evidence and "CLA" for legal authorities. The number for each Exhibit containing a document

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produced by Respondent shall be preceded by the letter “R” for documentary evidence and “RLA” for legal authorities.

- 15.4.3. Each Exhibit shall have a divider with the Exhibit identification number on the tab.
 - 15.4.4. A Party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.
 - 15.4.5. Exhibits shall also be submitted in PDF format and start with the number “C-0001” and “R-0001,” respectively. Legal authorities shall also be submitted in PDF format and start with the number “CLA-0001” and “RLA-0001,” respectively.
 - 15.4.6. 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.
 - 15.5. To avoid duplicating submissions, the Parties shall file all documents only once by attaching them to their pleadings. Documents so filed need not be resubmitted with witness statements even if referred to in such statements.
 - 15.6. Demonstrative exhibits (such as Power Point slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence. Each Party shall number its demonstrative exhibits consecutively, and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The Party submitting such exhibits shall provide them in hard copy to the other Party, the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) at the hearing.
 - 15.7. At the hearing, the Tribunal shall not admit any direct testimony or other evidence that has not been filed with the written submissions, including to impeach witnesses during cross-examination, unless the Tribunal determines that exceptional circumstances exist.
 - 15.8. Each witness statement and expert report shall be signed and dated by the submitting witness or expert.
16. Examination of Witnesses and Experts
- 16.1. Each witness and expert shall be available for examination at the hearing, subject to the provisions of this Order.

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- 16.2. Six (6) weeks before a hearing, provided that each Party has had a reasonable time since the last prior submission, each Party shall provide the opposing Party, with a copy to the Tribunal and to the Tribunal Secretary, the names of any witnesses and experts whose statement or report has been submitted by the opposing Party, with the request that they be available for cross-examination at the hearing. The Tribunal will rule on any outstanding issue in connection with the appearance of witnesses or experts shortly thereafter. Witnesses and experts who are not called for cross-examination shall not testify at the hearing, but if a Party calls fewer than two of the other Party's experts or fewer than two of the other Party's witnesses, then the other Party may designate, respectively, up to two (2) witnesses and/or up to two (2) experts to testify.
- 16.3. Shortly after the Parties' notifications, the Tribunal will indicate the witnesses or experts not called by the Parties whom it wishes to question, if any.
- 16.4. The procedure for examining witnesses and experts at the hearing shall be the following:
 - 16.4.1. The witness statement of each witness and the expert report of each expert shall stand in lieu of the examination by the Party producing the witness and expert ("direct examination"), subject to the provisions below.
 - 16.4.2. The examination shall be limited to matters raised in the pleadings, witness statements, documents that have been produced (including those by order of the Tribunal), and/or oral evidence of the other party's witnesses, to the extent the witness is competent to testify on these statements and materials.
 - 16.4.3. Without leave of the Tribunal, direct examination of fact witnesses shall not exceed 15 minutes and shall be limited to the scope of prior testimony.
 - 16.4.4. Without leave of the Tribunal, direct examination of experts shall not exceed 20 minutes and shall be limited to the scope of prior testimony.
 - 16.4.5. The direct examination of witnesses is followed by examination by the other Party ("cross-examination"), and subsequently by the Party producing the witness ("redirect examination").
 - 16.4.6. The redirect examination shall be limited to matters raised in cross-examination.
 - 16.4.7. The Tribunal may pose questions during or after the examination of any witness or expert.
- 16.5. The Parties shall organize their allotted time at the hearing including with respect to witnesses, subject to the rules set forth herein. The Tribunal may, of its own

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initiative or at the request of a Party, direct that a witness be recalled for further examination at any time or summon any other witness to appear.

- 16.6. Witnesses of fact shall not be allowed in the hearing room before giving their oral evidence. In the event that a witness of fact is also a Party representative, that witness may designate another individual to serve as Party representative until that witness has testified. Experts shall be allowed in the hearing room at any time, and during the examination of other experts.
- 16.7. If a witness who has submitted a witness statement or an expert who has submitted an expert report does not appear without a valid reason at the hearing, the Tribunal shall disregard that witness statement or expert report unless, in exceptional circumstances, the Tribunal determines otherwise. In this latter case, the Tribunal shall take into account that such testimony has not been subject to cross-examination.
- 16.8. A Party that does not call a witness proffered by the other Party for cross-examination shall not be deemed to have agreed to the correctness of the content of the witness statement.

17. Pre-Hearing Organizational Meeting

- 17.1. Three (3) weeks before the hearing, a pre-hearing organizational meeting shall be held by telephone between the Tribunal and the Parties in order to resolve any outstanding procedural, administrative, and logistical matters in preparation for the hearing.

18. Hearings

- 18.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 18.2. The hearing shall be scheduled as set forth in the Procedural Schedule attached as Annex A.
- 18.3. The sequence of the hearing will be as follows:
 - (a) Opening statement by Claimant
 - (b) Opening statement by Respondent
 - (c) Direct and cross examination of Claimant's witnesses and then Respondent's witnesses, followed by direct and cross examination of Claimant's experts and

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then Respondent's experts. The examination of the Parties' experts shall be arranged by topic.

(d) Closing statement by Claimant

(e) Closing statement by Respondent

18.4. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.

18.5. Time shall be divided equally between the Parties, who may decide how to allocate the use of such time.

19. Records of Hearings and Sessions

19.1. Sound recordings shall be made of all hearings and sessions.

19.2. The Tribunal Secretary may prepare summary minutes of hearings and sessions upon request.

19.3. Verbatim transcript(s) in English and Spanish 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 be available in real-time using LiveNote or similar software and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.

19.4. The Parties shall attempt to agree on any corrections to the transcripts within 20 days after receipt of the transcripts after the closing of the hearing. The agreed corrections may be entered by the Parties in the transcripts ("revised transcripts"). In case of disagreement between the Parties, the Tribunal shall decide upon such disagreement and any correction adopted by the Tribunal shall be entered by the Parties in the revised transcripts.

20. Post-Hearing Memorials, Statements of Costs and Closure of Hearings

20.1. At the conclusion of any hearing, the Tribunal shall decide whether the Parties will file Post-Hearing Memorials. In any event, any such submissions shall not contain new evidence, documents, sources, declarations or expert reports.

20.2. The Tribunal shall also consider when the Parties shall file submissions regarding costs.

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21. Drafting of Rulings

- 21.1. The Tribunal endeavors to draft the required rulings within a reasonable period of time after the latest step taken in relation to the matter concerned, such as a hearing or submission.
- 21.2. The Tribunal will send regular updates to the Parties regarding the status of the drafting of the ruling if it has not been issued within the following periods of time:

<i>Ruling</i>	<i>Update After Last Step</i>	<i>Further Updates</i>
Major Decision or Award	6 months	Every 3 months
Other Decisions	1 month	Every month

22. Transparency

- 22.1. Objective. In addition to openness of the proceeding to the participation of the non-disputing party and amici, as discussed above, this Section further implements the object and purpose of transparency as contemplated under the Treaty.
- 22.2. Application of Treaty. The Parties confirm the applicability of Article 10.21 of the Treaty with respect to the transparency of the arbitral proceedings, including without limitation the provisions related to (a) publication of documents, (b) open hearings and (c) the safeguard of protected information, and as further implemented pursuant to this Section.
- 22.3. Transparency with respect to First Session. This Procedural Order resulting from the first session of the proceeding shall be made public and published as indicated in this Section.
- 22.4. Maintenance of Web Site with Procedural Details. ICSID shall maintain a record of the procedural details for the proceeding on its web site as for similar cases administered by the Centre under the ICSID Rules.
- 22.5. Publication by Administering Authority. Further to the role of ICSID as the Administering Authority, the documents set forth in Article 10.21(1)(a)-(e) of the Treaty will be published by ICSID as part of the Procedural Details on the ICSID web site.

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[Signed]

The Honourable
Mr. L. Yves Fortier CC, QC,
Arbitrator
Date: August 22, 2013

[Signed]

Mr. Toby T. Landau Q. C.
Arbitrator
Date: August 22, 2013

[Signed]

Mr. Michael J. Moser
Presiding Arbitrator
Date: August 22, 2013

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ANNEX A
Procedural Schedule

<i>Submission</i>	<i>Period</i>
Initial Submissions	
Claimant's Memorial on Liability	26 weeks (from signature of P.O. No. 1)
Article 10.20(4) Phase, If Any	
Respondent's notice of any intention to make a submission pursuant to Article 10.20(4) of the Treaty, if any	4 weeks (from last step)
<i>Preliminary Consideration of Scope</i> <i>Claimant's challenge to the scope of Article 10.20(4) objections, if any</i>	2 weeks (from last step)
<i>Optional hearing regarding scope of submission</i>	2 weeks (from last step)
<i>Preliminary Decision (or full or partial deferral of decision)</i>	
<i>Party submissions on scheduling implications of Preliminary Decision</i>	1 week (from last step)
<i>Tribunal decision on scheduling for remainder of phase</i>	
Respondent's submission pursuant to Article 10.20(4) of the Treaty, if any	8 weeks (from Claimant's Memorial); or, 6 weeks (from Preliminary Decision)
Claimant's Answer to Article 10.20(4) submission	8 weeks (from last step)
Respondent's Reply to Article 10.20(4) submission	4 weeks (from last step)
Claimant's Rejoinder to Article 10.20(4) submission	4 weeks (from last step)
Hearing on Article 10.20(4) submission	Approximately 4 weeks (from last step)
Decision on any Article 10.20(4) submission	
Respondent's Counter-Memorial on Liability (including any counter-claims and/or jurisdictional objections)	16 weeks (from Tribunal's decision); or 26 weeks (from Claimant's Memorial, if no Article 10.20(4) phase)
Document Production	
Parties exchange primary document requests	4 weeks (from last step)
Parties exchange responses and objections to primary document requests	4 weeks (from last step)
Parties: (i) start rolling production of documents to which there are no objections; and (ii) meet and confer to resolve any disputes relating to the production of documents	2 weeks (from last step)
Parties submit to Tribunal any outstanding disputes related to document production	2 weeks (from last step)
Tribunal rules on disputes related to document production	2 weeks (from last step)
Parties complete document production	4 weeks (from last step)
Briefing on Liability and Jurisdiction, if applicable	
Claimant's Reply (including response to any counterclaims or jurisdictional objections)	20 weeks (from completion of document production)

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<i>Submission</i>	<i>Period</i>
Respondent's Rejoinder	26 weeks (from last step)
Claimant's Rejoinder on counterclaims and/or jurisdiction (limited in scope), if applicable	10 weeks (from last step)
Non-Disputing State Party Submissions/<i>Amicus Curiae</i>	
Third party petitions to Tribunal to submit <i>amicus curiae</i> and any submission by a non-disputing State Party	4 weeks (from Respondent's Rejoinder or, if filed, Claimant's Rejoinder on counterclaims and jurisdiction, if applicable)
Parties comment on petitions to submit <i>amicus curiae</i>	4 weeks (from last step)
Decision on <i>amicus curiae</i> petitions	3 weeks (from last step)
Parties comment on <i>amicus curiae</i> submissions and any submission by a non-disputing State party	4 weeks (from last step)
Hearing (1 week, with 1 additional consecutive week held in reserve)	8 weeks minimum from last submission
Award/Decision on Liability and, as applicable, Jurisdiction	TBD
Quantum Phase, if any	If applicable, schedule to be established by Parties and Tribunal

