

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Bank of Nova Scotia**  
*Claimant*

v.

**Republic of Peru**  
*Respondent*

**(ICSID Case No. ARB/22/30)**

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**PROCEDURAL ORDER No. 6**  
**On Document Production**

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***Members of the Tribunal***

Ms. Lucy Reed, President of the Tribunal  
Prof. Dr. Kaj Hobér, Arbitrator  
Prof. Zachary Douglas K.C., Arbitrator

***Secretary of the Tribunal***

Ms. Patricia Rodríguez Martín

16 October 2025

**A. INTRODUCTION AND BACKGROUND**

1. In accordance with Section 15 of Procedural Order No. 1 and the Procedural Calendar (as revised on 29 May 2025), each Party served on the other Party document production requests (*DPRs*) in the form of a Redfern Schedule on 15 August 2025. The Parties exchanged their objections to production on 5 September 2025 and their responses to those objections on 19 September 2025. The Tribunal received the Parties' completed Redfern Schedules, from ICSID counsel, on 22 September 2025.
2. In this Order, the Tribunal addresses the Parties' contested DPRs.

**B. APPLICABLE STANDARDS AND DISCUSSION**

3. Paragraph 15.2 of Procedural Order No. 1 provides that the Tribunal, in deciding on the Parties' contested DPRs, will be guided by the International Bar Association Rules on the Taking of Evidence in International Arbitration (2020) (the *IBA Rules*). In their Redfern Schedules, both Parties refer extensively to the standards set forth in the IBA Rules.
4. With reference to Articles 3 and 9 of the IBA Rules, the Tribunal considers that the following standards are to guide its reasoning:
  - a. The request for production must identify with precision each document or specific category of documents sought.
  - b. The request must establish the relevance of each document or of each specific category of documents by identifying with reasonable particularity what factual allegation(s) it is intended to establish or rebut. The request should enable the other side and the Tribunal to refer to specific factual allegations in the submissions filed to date. This will not prevent a Party from referring to factual allegations anticipated to be made in subsequent submissions, provided such factual allegations are summarized clearly in the request.
  - c. The request must also establish with reasonable particularity how each document or specific category of documents is material to the outcome of the arbitration.

- d. The Tribunal will order the production of documents or specific categories of documents only if they exist and are within the possession, power, custody or control of the other Party, and are not in the possession, power, custody or control of the requesting side.
  - e. The Tribunal will also balance a request for production against the legitimate interests of the other side, including any applicable privilege, the extent to which the request places an unreasonable burden on the other side, and the need to safeguard confidentiality, taking into account all the surrounding circumstances.
5. Guided by these standards, the Tribunal has deliberated and decided on each contested DPR as set out in the completed Redfern Schedules attached as Annex 1 (the Claimant's Request for Documents) and Annex 2 (the Respondent's Request for Documents). Where the Tribunal has granted a DPR in full or in part, the Tribunal has accepted one or more of the arguments made by the requesting Party in support of the relevant DPR.
6. The Tribunal underscores that it is not ordering the production of any privileged, confidential, or highly sensitive information. Responsive documents containing such information are to be produced, is possible, with such information redacted. If a Party withholds the production of a document or redacts material from a document to protect disclosure of privileged, confidential or highly sensitive information, that Party must produce to the other side a Privilege and Confidentiality Log identifying for each relevant document: (a) the author(s); (b) the recipient(s), specifying which of the recipients are direct recipients and which were copied; (c) the subject matter of the document or redacted portion thereof claimed to be privileged or immune from disclosure; (d) the date; and (e) the basis for the claim of privilege or other immunity from disclosure.
7. The Tribunal reminds the Parties of the confidentiality provision in paragraph 7 of Procedural Order No. 2:

*A document produced by a Disputing Party to the other Disputing Party shall be protected from disclosure to third parties as though it contained Confidential*

*Information in its entirety, except that (a) should the document be filed by one of the Disputing Parties as part of a written submission or pleading, the Disputing Party must follow the process for designating Confidential Information set out in this Procedural Order, and (b) any produced documents that are already publicly available need not be treated as Confidential Information protected from disclosure.*

8. The Tribunal underscores that its decisions on document production are not intended to provide an implied decision on any issue in dispute between the Parties. Accordingly, the Parties should not in the course of these proceedings contend that the Tribunal's decision to uphold or deny a request was indicative of any position on the merits.

**C. DECISION**

9. The Tribunal holds as follows:
- a. The Tribunal decides on the contested document production requests as stated in Annex 1 and Annex 2. These Annexes form an integral part of the present Order.
  - b. As set out in the Procedural Calendar, each Party shall produce all documents, both voluntarily and as ordered herein, by **7 November 2025**.
  - c. If a Party withholds the production of a document or redacts material from a document based on an assertion of privilege or other immunity from disclosure, that Party must produce to the other Party a Privilege and Confidentiality Log as described in paragraph 6 above to the other Party by **7 November 2025**.
  - d. The documents produced shall not be communicated to the Tribunal at this stage and shall not be considered part of the record unless and until one of the Parties submits them as exhibits to a submission.

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**For the Tribunal**

[Signed]

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**Lucy Reed**  
President of the Tribunal