INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Lotus Proje Akaryakıt Enerji Madencilik Telekominikasyon İnşaat Sanayi Taah. Ve Tic. A.Ş.

v.

Turkmenistan

(ICSID Case No. ARB/24/13)

PROCEDURAL ORDER NO. 9

Members of the Tribunal
Ms. Meg Kinnear, President of the Tribunal
Ms. Lucy Greenwood, Arbitrator
Mr. John M. Townsend, Arbitrator

Secretary of the Tribunal
Mr. Govert Coppens

December 18, 2025

I. INTRODUCTION AND PROCEDURAL BACKGROUND

1. This Order addresses a request by the Claimant for suspension of these proceedings pursuant to Rule 54 of the 2022 ICSID Arbitration Rules ("**AR**"), and a "counter-request" by the Respondent for suspension of the proceedings pursuant to AR 53(6).

2. For purposes of the current motions, the key facts are as follows.

3. On April 28, 2025, the Tribunal ordered the Claimant to post security for costs ("**SFC**") of USD 2 million in favour of the Respondent. The Claimant was to revert to the Tribunal by May 28, 2025, with sufficient details about the form of the SFC to allow the Tribunal to approve the proposed security. Once approved, the Claimant was to put the security in place within 30 days, and to maintain the security until the conclusion of the arbitration and satisfaction of any adverse costs award or modification of the SFC by the Tribunal pursuant to AR 53(6) to (8).[1]

4. The Tribunal allowed the Claimant an extension to June 30, 2025, to revert with details on the SFC it proposed to post, and then to put the SFC in place within 30 further days. All other filing dates were maintained.[2]

5. In its Procedural Order No. 5 of June 15, 2025, the Tribunal agreed to an extension of time for the filing of the Claimant's Memorial on the Merits and the Respondent's Counter-Memorial on the Merits and Memorial on Jurisdiction. The Tribunal also reminded the Claimant of its obligation to revert to it on SFC and the deadlines for doing so.[3]

[1] Procedural Order No. 3, April 28, 2025, para. 86.

[2] Procedural Order No. 4, June 2, 2025, para. 6.

[3] Procedural Order No. 5, June 18, 2025, paras. 13-14.

6. On July 2, 2025, the Tribunal revised the case schedule and allowed the Claimant until July 5, 2025, to file its update on obtaining SFC, which it filed on that date.[4] Subsequently, on July 28, 2025, the Claimant filed its Memorial on the Merits of the case.

7. The Claimant elected to provide SFC through an "**ATE**" insurance policy. From July 5 until September 12, 2025, the Parties exchanged questions about the particular policy proposed.[5] The Tribunal held a hearing on the matter on September 26, 2025, which resulted in an order that the Claimant provide an updated and complete ATE policy by October 15, 2025. The Respondent was given until October 24, 2025, to comment on the updated policy, and thereafter the Tribunal would decide if the policy could be approved as SFC in the case.[6]

8. On October 27, 2025, the Tribunal approved the proposed ATE policy, giving the Claimant until November 26, 2025, to put the policy into effect.[7] To date, neither the Respondent nor the Tribunal have received confirmation from the Claimant that the ATE policy has been put into effect, as it was required to do.

9. The Claimant sent an email to the Tribunal on November 26, 2025, requesting a suspension of these proceedings by agreement of the Parties pursuant to AR 54. The suspension was requested for 3 months on the basis that there had been recent constructive exchanges between the Parties indicating "a genuine possibility of advancing structured settlement discussions that could resolve the dispute".

10. By letter dated December 3, 2025, the Respondent denied that there had been any such discussions, advised that it has no intention of settling the matter, and stated that it does not consent to a suspension pursuant to AR 54. Instead, the Respondent requested an immediate suspension of the proceedings pursuant to AR 53(6) and termination of the

[4] Procedural Order No. 6, July 2, 2025, para. 4.

[5] Procedural Order No. 7, September 29, 2025 ("**PO7**"), paras. 6-15.

[6] PO7, para. 24.

[7] Procedural Order No. 8, October 27, 2025 ("**PO8**"), paras. 7, 16(a).

proceedings with its costs if the Claimant failed to meet its obligations regarding posting of SFC within the following 90 days.

11. The Tribunal notes that by email dated December 6, 2025, two members of the Claimant's counsel team advised that they had withdrawn from the matter.

12. The Tribunal scheduled a hearing for December 17, 2025 (the "**Hearing**"), to address these cross applications.

13. At the Hearing, the Claimant confirmed that the SFC was not yet in place, and consequentially that it had not notified the Tribunal or the Respondent concerning putting the SFC in effect. The Respondent confirmed that it had not received any such notification. It is thus indisputable that the SFC is not in place, contrary to the Tribunal's Order.[8]

14. The Claimant maintained that there had been constructive settlement negotiations and that further negotiations were planned. Counsel for the Respondent denied knowledge of such discussions and noted that the Ministry of Justice, to which counsel report, is the only entity with authority to undertake settlement discussions on behalf of Turkmenistan. In the course of the Hearing, the Claimant undertook to provide the Respondent with information concerning the persons it was talking to, and with any further information that might bridge the contradictory understandings each Party holds about the current situation. The Tribunal urges the Claimant to do so within the next week.

15. The Respondent reiterated its position set out in its letter of December 3, 2025, noting that a suspension under AR 53(6) was appropriate for failure to comply with an SFC order, which was the situation as of November 26, 2025.

[8] PO8, paras. 7, 16(a).

II. THE CLAIMANT'S REQUEST FOR SUSPENSION

16. The Claimant's request for suspension is based on AR 54. AR 54(1) states that "The Tribunal shall suspend the proceeding by agreement of the parties."

17. From the correspondence on record and the oral submissions at the Hearing, it is clear that the Parties have not agreed to suspend the proceedings. The Claimant's request must therefore be denied.

18. During the Hearing, the Claimant raised the possibility of a suspension pursuant to AR 54(2) which gives the Tribunal discretion to suspend at the request of either Party or on its own initiative. In the circumstances, the Tribunal considers a suspension under AR 53(6) more appropriate.

III. THE RESPONDENT'S REQUEST FOR SUSPENSION

19. The Respondent has asked the Tribunal to suspend the proceedings pursuant to AR 53(6). AR 53(6) states that "If a party fails to comply with an order to provide security for costs, the Tribunal may suspend the proceeding. If the proceeding is suspended for more than 90 days, the Tribunal may, after consulting with the parties, order the discontinuance of the proceeding."

20. Based on Procedural Order Nos. 3 to 8, the correspondence on record to date, and the submissions of the Parties at the Hearing, it is firmly established that the Claimant has not put the SFC it was ordered to provide into effect. The time for doing so expired on November 26, 2025.

21. As a result, the Tribunal orders this matter to be suspended as of the date of this Order pursuant to AR 53(6). The hearing dates that had been reserved in Annex B of Procedural Order No. 1 (as amended) will be released and all intermediate deadlines other than those provided in this order are vacated.

22. Consistent with AR 53(6), if the Claimant fails to meet its obligations with respect to posting SFC in this matter by or before March 20, 2026, the Tribunal may order the discontinuance of the proceeding following consultation with the Parties.

23. Unless this matter has been resolved by March 20, 2026, the Parties should provide the Tribunal with a status report **by March 23, 2026**. Ideally, the Parties would provide a joint status report; however, if this is not possible, the Parties may file individual status reports. In addition, the Parties should reserve **March 27, 2026**, for a case management conference with the Tribunal to determine next steps.

IV. DECISION

24. For the foregoing reasons, the Tribunal orders as follows:

a. The Claimant's request for a suspension pursuant to AR 54 is denied;

b. The Respondent's request for a suspension pursuant to AR 53(6) is granted; and

c. The proceeding is suspended pursuant to AR 53(6) effective December 18, 2025.

On behalf of the Tribunal,

[signed]
Ms. Meg Kinnear
President of the Tribunal
Date: December 18, 2025