

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Gruppo Officine Piccini S.p.A.**

**v.**

**Republic of Cameroon**

**(ICSID Case No. ARB/23/21)**

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**PROCEDURAL ORDER No. 3**  
**On the Respondent's Request of 28 April 2025**

***Members of the Tribunal***

Mr. Matthias Scherer, President of the Tribunal  
Dr. Constantine Partasides KC  
Prof. Andrea Bjorklund

***Secretary of the Tribunal***

Dr. Laura Bergamini

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1 May 2025

**I. INTRODUCTION**

1. On 11 March 2024, the Tribunal issued Procedural Order No. 1, which included a procedural timetable for this proceeding that had been discussed and agreed upon by the Parties. The timetable outlined three potential scenarios based on whether the Respondent would file a request for bifurcation and whether such a request would be upheld. This procedural timetable was subsequently amended on 16 May 2024 (and on another occasion thereafter).
2. On 17 May 2024, the Claimant submitted its Memorial, accompanied by Witness Statements of [REDACTED] and [REDACTED], as well as an Expert Report of Mr. Matthias Cazier-Darmois from HKA.<sup>1</sup>
3. On 3 July 2024, the Tribunal took note that the Respondent did not file a bifurcation request within the time limits set in Scenarios Nos. 2 and 3 of the amended procedural timetable (namely, by 1 July 2024). Consequently, the Tribunal confirmed that Scenario No. 1 of the procedural timetable would apply to the proceeding and released the hearing dates indicated in Scenarios Nos. 2 and 3.
4. On 1 October 2024, the Respondent filed its Counter-Memorial, raising three objections to the Tribunal's jurisdiction and addressing the Claimant's claims on the merits. No witness statements or expert reports were submitted with the Counter-Memorial.
5. On 3 October 2024, the Respondent's counsel, Ms. Bebohi, informed the Tribunal that HBE Avocats (Ms. Bebohi Ebongo and Mr. Happi) and Talex International would no longer represent the Respondent in this proceeding.

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<sup>1</sup> The Claimant filed a corrected version of its Memorial on 24 May 2024.

6. On 4 October 2024, the Tribunal acknowledged receipt of the Respondent's correspondence of 3 October 2024, and noted that, until further notice, future correspondence regarding the case would be sent to the Respondent's representatives on file: Mr. Jean-Claude Awana, Mr. Emmanuel Pensy, and Dr. Rodrigue Ngando Sandje (of the *Cellule du Contentieux, Ministère des Sports et de l'Éducation Physique*).
7. On 7 October 2024, the Respondent filed a corrected version of its Counter-Memorial.
8. Between 22 October and 21 November 2024, the Parties exchanged their document production requests, objections, and responses pursuant to the procedural timetable. The Tribunal made its decision on these matters on 17 December 2024.
9. On 17 January 2025, the Claimant submitted its Reply, accompanied by a second Expert Report from Mr. Matthias Cazier-Darmois of HKA.<sup>2</sup>
10. Between 20 January and 9 April 2025, the Tribunal and the Parties exchanged numerous pieces of correspondences regarding the organization of the hearing scheduled to take place in May 2025.
11. On 17 April 2025, the Respondent submitted its Rejoinder accompanied by a Witness Statement of [REDACTED].<sup>3</sup>
12. On 23 April 2025, the Respondent informed the Tribunal that it had appointed additional representatives for this proceeding: Dr. Gaston Kenfack Douajni, Mr. Benoit Placide Mevoua, and Mr. Honoré Mbang Oliboko, and transmitted the corresponding letters of appointment dated 16 April 2025.

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<sup>2</sup> The Claimant submitted corrected versions of its indexes of exhibits and legal authorities on 24 January 2025.

<sup>3</sup> Upon the Tribunal's request, the Respondent submitted a signed version of the Witness Statement of [REDACTED] on 24 April 2025.

13. On 24 April 2025, the Tribunal noted that in one of the letters of appointment transmitted with the Respondent's message of 23 April 2025, the Ministry of Finance stated: "[e]n outre, j'ai, par lettre séparée de ce jour, constitué Maître ABEGA Prosper, Avocat au Barreau de Marseille (France) en qualité de Conseil de l'Etat pour le suivi de ces procédures." The Tribunal invited the Respondent to confirm whether Mr. Abega (i) was also part of the Respondent's legal team for this proceeding, (ii) should be included in the distribution list, and (iii) would attend the hearing. By messages dated 24 and 25 April 2025, Dr. Ngando, on behalf of the Respondent, confirmed that Mr. Abega is a member of the Respondent's legal team in this case.
14. On 24 April 2025, the Claimant submitted to the Tribunal the Parties' comments on draft Procedural Order No. 3 regarding the organization of the hearing. The draft comprised both Parties' positions. On the same date the Respondent responded to the Claimant's message clarifying a point of disagreement.
15. On 24 April 2025 the Respondent requested to cross-examine the Claimant's expert (Matthias Cazier-Darmois) whom the Claimant had called.
16. On 28 April 2025, Mr. Abega, on behalf of the Respondent, wrote to the Tribunal formulating two requests: that the proceedings on the merits be suspended and that the issues of jurisdiction be bifurcated from the merits (the "**Request**"). Specifically, the Respondent asked that:

*[L]a présente procédure arbitrale soit suspendue sur le fond et l'audience reportée afin de permettre aux nouveaux représentants de la République du Cameroun de prendre connaissance de l'affaire sur le fond et de préserver la sauvegarde de ses droits. En effet, de toute évidence, la République du Cameroun n'est pas en mesure, sans que son équipe de conseils nouvellement reformée puisse avoir le temps de prendre connaissance du dossier, d'exposer avec célérité et efficience ses moyens de défense et d'exposer sa cause*

*dans des conditions qui ne la place pas en situation d'infériorité manifeste par rapport à l'autre partie lors de la tenue d'une audience sur le fond du dossier programmée dans moins de trois semaines, si cette audience devait être maintenue.*<sup>4</sup> (emphasis added)

*[The Respondent] formule, au surplus, une demande de bifurcation sur le fondement des dispositions de l'article 25 et 41 du Règlement du CIRDI dans cette affaire qui pourrait, selon elle, être maintenue à une date qui pourrait être celle du 13 mai prochain. Il lui apparaît, en effet, opportun de séparer les questions relatives à la compétence de celles relatives au fond. [...] C'est la raison pour laquelle, elle sollicite de la bienveillance du Tribunal Arbitral de bien vouloir examiner les mérites de cette requête de bifurcation qu'elle prendra soin de développer dans un mémoire de bifurcation qu'elle entend soumettre au Tribunal Arbitral à tout bref délai qu'il voudrait bien lui octroyer.*<sup>5</sup> (emphasis added)

17. On 28 April 2025, the Respondent transmitted a letter signed by the Respondent's Minister of Finance appointing Mr. Abega to represent the Republic of Cameroon in this proceeding.
18. On the same date, the Tribunal wrote to the Parties, confirming that the pre-hearing conference call scheduled for 29 April 2025 would take place as planned, and that draft Procedural Order No. 3 would be discussed. The Tribunal further indicated that, during the meeting, it would invite the Parties to briefly address the Request in Mr. Abega's letter, without prejudice to any further directions or decisions.
19. At the pre-hearing conference call, on 29 April 2025, the Respondent confirmed that it does not request the cancellation or postponement of the hearing scheduled from 13 to 15 May 2025, but seeks to limit the hearing's scope to the debate on issues of jurisdiction.

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<sup>4</sup> Letter of 25 April 2025, pp. 1-2.

<sup>5</sup> Letter of 25 April 2025, pp. 2-3.

20. The Respondent justified its Request by highlighting the recent constitution of a new legal team and the need to ensure the right of defense for Cameroon. The Respondent argued that in the bifurcated hearing, the Respondent would explain to the Tribunal why a “*marché public*” cannot qualify as an investment under the bilateral investment treaty between Italy and Cameroon and the ICSID Convention. The Respondent reiterated that the preliminary issues of jurisdiction for which it requests bifurcation are not new, having been raised in its Counter-Memorial.
21. The Respondent relied on Arbitration Rule 42(4)(a) and (b), Rule 44(1)(a)(i), and Article 41 of the Convention, asserting that its request for bifurcation is timely. The Respondent argued that the 45-day delay provided by Rule 44(1)(a)(i) runs from the date of its Rejoinder on 17 April 2025, because this submission is the “*memoire sur le fond*” referred to in Rule 44.
22. According to the Respondent, the bifurcation of its jurisdictional objections would not prejudice the Claimant but rather serve both Parties’ interests and ensure that the Tribunal addresses key preliminary issues before considering the merits of the case.
23. At the pre-hearing conference call, the Claimant opposed the Respondent’s request for bifurcation and for a limitation of the scope of the May hearing to the issues of jurisdiction.
24. The Claimant noted that the procedural timetable approved on 11 March 2024 included three scenarios, two of which allowed for the possibility to apply for bifurcation. The Respondent, at that time represented by external counsel, chose not to seek bifurcation and in October 2024 filed a Counter-Memorial addressing both jurisdiction and merits. Since then, the Parties have filed two additional submissions, and the jurisdictional issues the Respondent now seeks to bifurcate have been fully briefed.

25. The Claimant asserts that the Respondent's request for bifurcation is untimely, having been submitted at an advanced stage of the proceedings and well beyond the prescribed time limit set forth in ICSID Rule 44(1)(a)(i), which mandates submission within 45 days following the filing of the Claimant's Memorial. The Claimant argued that Rule 42 is inapplicable to the bifurcation of preliminary objections and that Article 41 of the Convention does not support the Respondent's Request, as it merely establishes that the Tribunal is the judge of its own jurisdiction
26. The Claimant asserted that the Respondent has failed to provide a valid justification for bifurcation. The Claimant contended that bifurcation is unwarranted because the jurisdictional objections raised in the Counter-Memorial are inextricably linked with the merits of the case. Furthermore, the Claimant argued that bifurcation at this advanced stage of the proceeding would not promote efficiency in terms of time and costs, which is the primary objective of bifurcation. Instead, the Claimant maintained that bifurcation at this juncture would result in increased costs and would prolong the duration of the proceeding.

## **II. TRIBUNAL'S ANALYSIS**

27. The Parties' exchanges, as recalled above, present two intertwined issues for the Tribunal's decision: (i) whether bifurcation of the jurisdictional issues raised in the Respondent's Counter-Memorial should be ordered, and (ii) whether the scope of the hearing scheduled to take place from 13 to 15 May 2025 should be limited to issues of jurisdiction.
28. Rule 44 of the 2022 ICSID Arbitration Rules, titled "Preliminary Objections with a Request for Bifurcation," and on which both Parties rely, reads as follows.

(1) The following procedure shall apply with respect to a request for bifurcation relating to a preliminary objection:

(a) unless the parties agree otherwise, the request for bifurcation shall be filed:

- (i) within 45 days after filing the memorial on the merits;
- (ii) within 45 days after filing the written submission containing the ancillary claim, if the objection relates to the ancillary claim; or
- (iii) as soon as possible after the facts on which the preliminary objection is based become known to a party, if those facts were unknown to that party on the dates referred to in paragraph (1)(a)(i) and (ii);
- (b) the request for bifurcation shall state the preliminary objection to which it relates;
- (c) unless the parties agree otherwise, the proceeding on the merits shall be suspended until the Tribunal decides whether to bifurcate;
- (d) the Tribunal shall fix time limits for submissions on the request for bifurcation; and
- (e) the Tribunal shall issue its decision on a request for bifurcation within 30 days after the last submission on the request.
- (2) In determining whether to bifurcate, the Tribunal shall consider all relevant circumstances, including whether:
  - (a) bifurcation would materially reduce the time and cost of the proceeding;
  - (b) determination of the preliminary objection would dispose of all or a substantial portion of the dispute; and
  - (c) the preliminary objection and the merits are so intertwined as to make bifurcation impractical.
- (3) If the Tribunal decides to address the preliminary objection in a separate phase of the proceeding, it shall:
  - (a) suspend the proceeding on the merits, unless the parties agree otherwise;
  - (b) fix time limits for submissions on the preliminary objection;

(c) render its decision or Award on the preliminary objection within 180 days after the last submission, in accordance with Rule 58(1)(b); and

(d) fix any time limit necessary for the further conduct of the proceeding if the Tribunal does not render an Award.

(4) If the Tribunal decides to join the preliminary objection to the merits, it shall:

(a) fix time limits for submissions on the preliminary objection;

(b) modify any time limits for submissions on the merits, as required; and

(c) render its Award within 240 days after the last submission in the proceeding, in accordance with Rule 58(1)(c).

29. The Respondent relies on Rule 42 of the 2022 ICSID Arbitration Rules in addition to Rule 44. The Tribunal observes that Rule 42, titled “Bifurcation”, is a general provision that applies to all requests where a party seeks to bifurcate a question. However, if that question is a preliminary objection Rule 44 applies (Rule 42(2)). The procedure set out in Rule 42 only applies to bifurcation requests that do not relate to a preliminary objection (Rule 42(3)). Thus, the Respondent’s bifurcation request has to be assessed under Rule 44.
30. The Tribunal notes that Rule 44(1)(a)(i) stipulates a clear deadline for submitting a request for bifurcation, specifically “45 days after filing the memorial on the merits.” This Rule mandates that this time limit is obligatory (“shall be filed”) unless the Parties agree otherwise. In the present case, the request for bifurcation was filed over 11 months after the submission of the Claimant’s Memorial, rendering it untimely. The Tribunal is not persuaded by the Respondent’s interpretation of the term “memorial on the merits” in Rule 44(1)(a)(i). Rule 30 of the 2022 ICSID Arbitration Rules indicates that the term “memorial” has a specific meaning within the Rules, identifying the initial brief from the requesting party. It does not refer to subsequent submissions such as a respondent’s

rejoinder. Also, the interpretation proposed by the Respondent would allow for bifurcation of preliminary objections at a very late stage of the proceeding, which contradicts the intended purpose of bifurcation.

31. In any event, the Tribunal notes that the procedural timetable adopted following the First Session established a time limit for applying for bifurcation subsequent to the filing of the Claimant's Memorial on the merits. The Respondent, represented by its then-counsel, elected not to file such a request at that time in relation to the same objections for which it now seeks bifurcation. In their submissions, the Parties have briefed the Tribunal on both merits and jurisdiction.
32. As acknowledged by the Respondent, the objections for which bifurcation is now requested are not new, as they were raised in the Respondent's Counter-Memorial. Each Party had the opportunity to address these objections in further written submissions. Given the very advanced stage of the proceedings and the activities already undertaken, the Tribunal does not consider that bifurcation would materially reduce the time and cost of the proceedings pursuant to Rule 44(2)(a), even if the request were not untimely.
33. In light of the foregoing, the Tribunal denies the Respondent's request for bifurcation and its request to limit the scope of the upcoming hearing to issues of jurisdiction. The Tribunal acknowledges that new external counsel has recently joined the Respondent's legal team. A party is free to change counsel but must ensure that the change does not disrupt the arbitration. The Respondent informed the Tribunal in October 2024 that its external counsel were no longer involved. Seven months have elapsed since the Respondent's previous counsel ceased representation, and during this period, the Respondent did not request additional time to accommodate new counsel. In any event, some current members of the Respondent's team have been participating in the proceeding since October 2024 and filed the Respondent's Rejoinder in April 2025. It is also noted that the Respondent has asked

to cross examine the Claimant's expert. The expert does not address jurisdictional issues. Given this context, the Respondent's decision to appoint additional counsel just a few weeks before the hearing does not justify limiting the scope of the hearing.

**III. TRIBUNAL'S DECISION**

34. In light of the foregoing, the Tribunal decides as follows:

- (i) The Respondent's request to bifurcate the proceedings and to limit the scope of the hearing scheduled from 13 to 15 May 2025 is denied.
- (ii) The Parties are ordered to confer regarding the schedule for the hearing, taking into account the directions provided by the Tribunal during the pre-hearing conference call, and to submit their joint proposal (or their separate proposals) no later than **5 May 2025**.

35. The Tribunal will rule on the outstanding issues concerning the organization of the hearing (and will issue the Procedural Order regarding that matter) after receiving the Parties' proposal(s) concerning the schedule for the May hearing.

For and on behalf of the Tribunal,

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[signature]

Mr. Matthias Scherer  
President of the Tribunal  
Date: 1 May 2025