

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

BA Desarrollos LLC

v.

Argentine Republic

ICSID Case No. ARB/23/32

Procedural Order No. 15
(Procedural Post-Hearing Matters)

Tribunal Members

Ms. Deva Villanúa, President of the Tribunal
Mr. Stephen L. Drymer, Arbitrator
Mr. Luis Alberto González García, Arbitrator

Secretary of the Tribunal

Ms. Catherine Kettlewell

Assistant to the Tribunal

Mr. Ethan Shannon-Craven

25 November 2025

WHEREAS

1. On 14 March 2024, the Tribunal issued Procedural Order No. [“PO”] 1, which covered, *inter alia*, the agreement of the Parties regarding the procedural calendar.
2. On 28 June 2024, the Respondent submitted a request to bifurcate its jurisdictional objections as a preliminary question pursuant to ICSID Convention Article 41(2) and ICSID Arbitration Rule 44. On 8 August 2024, the Claimant filed its observations on the Respondent’s request to address the objections to jurisdiction as a preliminary question.
3. On 9 September 2024, the Tribunal issued PO 7 in which it decided to deny the Respondent’s request for bifurcation. Consequently, the preliminary objections are joined to the merits of the dispute and the procedural calendar contained in Annex B of PO1 followed the “*Scenario with Request for Bifurcation Denied*”.
4. On 3 September 2025, the Tribunal held a pre-hearing organizational meeting with the Parties by videoconference. On 11 September 2025, the Tribunal issued PO 13 on the organization of the hearing.
5. On 8 October 2025, the Tribunal issued PO 14 concerning the submission of additional documents in anticipation of the hearing. In this procedural order, the Tribunal decided (i) to grant both Parties the introduction of agreed documents into the record; (ii) to give Argentina leave to introduce two legal authorities in the record and granted the Claimant an opportunity to submit new legal authorities in response (the latter would be decided at the beginning of the hearing), and (iii) to allow use of certain documents for the examination of Prof. Andrew Verstein and Mr. Jahn Brodwin.
6. In accordance with PO 1 and PO 13, the hearing was held in Washington, D.C. from 20 to 23 October 2025, at the ICSID’s hearing Facilities located at 1225 Connecticut Ave., NW, Washington, D.C. [“**Hearing**”].
7. During the hearing, the Parties and the Tribunal discussed a number of procedural matters applicable after the Hearing.
8. On 3 November 2025, the Parties submitted their agreements to the Tribunal in relation to (a) the Post-Hearing Calendar for immediate next steps, (b) the review of Hearing transcripts, and (c) the publication of Procedural Order No. 14.
9. On 25 November 2025, PO 14 was published on ICSID’s website.
10. On the same date, the Parties indicated that they would confer regarding an agreed date for the submission of Post-Hearing Briefs on Merits and Damages together with an updated version of the damages worksheet of the Claimant. The Parties noted that they would revert in the coming weeks.
11. The Tribunal issues this Procedural Order to record the Parties’ agreements and the decisions of the Tribunal with respect to the matters following the Hearing.

PROCEDURAL ORDER NO. 15

1. DOCUMENTS ADMITTED INTO THE RECORD DURING THE HEARING

12. In preparation for the Hearing and in accordance with PO 14, the Parties submitted additional documents into the record. On 10 October 2025, the Claimant informed the Tribunal that the Parties had uploaded the following admitted exhibits to the folder assigned to this case in the Box platform:
- Claimant **Exhibits C-352 to C-363**;
 - Respondent **Exhibits R-251 to R-277**;
 - Updated version of **Exhibit R-205**.
13. In accordance with PO 14, on 13 October 2025, the Parties submitted documents for the examination of Prof. Verstein and Mr. Brodwin. These documents were uploaded to the Box folder on 14 October 2025.
14. During the Hearing, the Parties submitted the following documents into the record:
- **Doc. H 1**: Claimant's Opening Statement¹;
 - **Doc. H 2**: Respondent's Opening Statement²;
 - **Doc. H 3**: Presentation of Prof. Andrew Verstein³;
 - **Doc. H 4**: Presentation of Mr. Jahn Brodwin⁴;
 - **Doc. H 5**: Presentation of Ms. María Laura Cibils⁵.
15. Also, during the Hearing, the following exhibits were allowed to be introduced into the record:
- **Exhibit R-278**: Email from Escribano General del Gobierno de la Nación to Allaria Fiduciaria S.A., dated 17 October 2025⁶;
 - **Exhibit R-279**: Disposición AABE N° 6/2025, dated 20 October 2025 (DI-2025-6-APN DNSRYI#AABE)⁷;
 - **Demonstrative Exhibit CD-4**: used in the examination of Ms. Maria Laura Cibils⁸;

¹ Introduced by Claimant as CD-1.

² Introduced by Respondent as H-2.

³ Introduced by Respondent as RD-1.

⁴ Introduced by the Claimant as CD-2.

⁵ Introduced by Respondent as RD-2.

⁶ Tr. Day 1, p. 7:8-20.

⁷ Tr. Day 1, pp. 202:17 – 204:13.

⁸ Tr. Day 4 pp. 1201:10 – 1225:15.

- **Exhibit C-364:** Allaria's note to the *Escribanía General de la Nación* dated 22 October 2025.

2. LEGAL AUTHORITIES ON DENIAL OF BENEFITS

16. At the beginning of the Hearing, the Tribunal noted one pending housekeeping issue contained in PO 14 with respect to the Parties' submission of legal authorities related to the Respondent's jurisdictional objection on denial of benefits.⁹
17. The Respondent submitted the following legal authorities:
 - **Exhibit RL-257:** *Durres Kurum Shipping SH. P.K., Durres Container Terminal SH.A, Metal Commodities Foreign Trade Corp., Altberg Developments LP v. Republic of Albania* (ICSID Case No. ARB/20/37), Award, 26 July 2024;
 - **Exhibit RL-258:** *Zaurleshkasheli and Rosserlane Consultants Limited v. Republic of Azerbaijan* (ICSID Case No. ARB/20/20), Award, 21 March 2025.
18. The Claimant indicated that it "would not be presenting any document to address the legal authorities that [Argentina] would be presenting on denial of benefits".¹⁰

3. REPORTS ON STATUS OF GRANTING OF TITLE

19. At the beginning of the Hearing, the Respondent informed the Tribunal regarding an update to the status of the title of the land plots at issue in this case¹¹.
20. As indicated at the Hearing, the Tribunal understands that there are "some factual uncertainties"¹² which require that the Parties provide regular updates as to that status. The Tribunal proposed that the Parties provide up-to-date reports on the matter every 15 days¹³.
21. The Parties agreed to provide such reports.¹⁴ At the end of the Hearing, the Tribunal and the Parties agreed that these updates would be provided mid and end of month starting on Wednesday, 12 November 2025.¹⁵
22. On 12 November 2025, each party submitted its respective update.
23. The next updates are due on **Wednesday, 26 November 2025**.

⁹ Tr. Day 1, p. 6:2-7.

¹⁰ Tr. Day 1, p. 6:19-21.

¹¹ See e.g. Tr. Day 1, pp. 6:10-14, 7:11-15.

¹² Tr. Day 4, p. 1228:14.

¹³ Tr. Day 4, pp. 1229:4-11.

¹⁴ Claimant: Tr. Day 4, p. 1238:11-18; Respondent: Tr. Day 4, p. 1389:9-10.

¹⁵ Tr. Day 4, p. 1390:8-10.

4. PARTIES' AGREED POST-HEARING CALENDAR

24. On 3 November 2025, the Parties submitted the following agreed procedural calendar on the immediate next steps in the proceeding:

Description	Party/Tribunal	Date
Each Party shall send to the other Party its corresponding revised sections of the Hearing transcripts, in accordance with the Party's agreement.	Parties	5 November 2025
Deadline for the Tribunal to send additional questions (Procedural Order No. 13, para. 21).	Tribunal	6 November 2025
Each Party shall send to the other Party no more than five (5) legal authorities related to " <i>effective seat</i> ."	Parties	7 November 2025
Each Party shall send to the other Party its comments on the sections of the Hearing transcripts reviewed by the other Party.	Parties	12 November 2025
First report on the status of the deed execution for Plots 2 and 3 (to be submitted every Wednesday every two weeks from this date until the recording of the deed transferring title of the Plots to Fideicomiso BAP, represented by Allaria Fiduciaria S.A., in the competent Real Estate Property Registry).	Parties	12 November 2025
Each Party shall send to the other Party no more than five (5) legal authorities in response to those sent by the opposing Party on 7 November 2025.	Parties	13 November 2025
Upload final versions of Hearing transcripts to BOX.	Parties	17 November 2025
Post-Hearing Brief on Jurisdictional Objections	Parties	5 December 2025

5. REVIEW OF HEARING TRANSCRIPT

25. At the end of each Hearing day, the English and Spanish court reporters circulated electronic copies of the final transcripts.
26. The Tribunal has confirmed with the Secretariat that the recordings for the floor, English and Spanish for each Hearing day have been uploaded to the Box folder corresponding to this case.
27. On 3 November 2025, the Parties informed that they agreed to consolidate the English and Spanish versions into a single language transcript per Hearing day. The

Parties further agreed that this blended version of the transcript will be bates-stamped for ease of reference.

28. Pursuant to the Parties' agreement, the final versions of the Hearing transcripts were uploaded to the corresponding folder for this case on the Box platform on 17 November 2025¹⁶.
29. This agreement of the Parties modifies para. 63 of PO 13. The abovementioned procedure will be the one applicable for the revised transcripts.

6. POST-HEARING BRIEFS AND COST SUBMISSIONS

30. In accordance with para. 25.1 of PO1, the Parties agreed the following procedure regarding post-hearing briefs:

*At the end of the hearing, the Tribunal shall consult with the Parties as to whether they shall submit Post-Hearing Briefs, as well as to determine the filing date and further details related to such written submissions. In addition, at the end of the hearing, the Tribunal shall issue directions regarding the Parties' statements of costs. Notwithstanding any subsequent provision in relation to statements of costs, the Parties agree to submit the breakdown of costs in accordance with **Annex E**.*

31. Additionally, para. 71 of PO 13 provided the following:

*The Parties shall submit post-hearing briefs by **12 December 2025**. At the end of the Hearing, the Tribunal shall consult with the Parties as to further details related to such written submissions, such as: (a) the content of the post-hearing briefs including any questions it would like addressed; and (b) length and format. No additional evidence may be produced together with the post-hearing briefs without first seeking leave in accordance with para. 17.5 of PO No 1.*

32. At the end of the Hearing, the Parties and the Tribunal agreed that the post-hearing submissions [**"Post-Hearing Briefs"**] would cover the jurisdictional objections indicated by the Tribunal¹⁷.
33. Post-Hearing Briefs shall be simultaneously submitted by **5 December 2025**,¹⁸ with a maximum of 50 pages (Times New Roman font, size 12)¹⁹.
34. The Post-Hearing Briefs shall be transmitted simultaneously in accordance with para. 13.2 of PO 1.

¹⁶ Parties' communication of 3 November 2025.

¹⁷ Tr. Day 4, pp. 1225-1249 (specifically, pp. 1240:6-18).

¹⁸ Parties' communication of 3 November 2025.

¹⁹ Tr. Day 4, p. 1388:15-16.

On behalf of the Arbitral Tribunal,

[Signed]

Deva Villanúa
President of the Tribunal
Date: 25 November 2025