

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Sarama Resources Ltd

v.

Burkina Faso

(ICSID Case No. ARB/24/51)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Prof. Albert Jan van den Berg, President of the Tribunal

Mr. John Beechey CBE, Arbitrator

Prof. Nassib G. Ziadé, Arbitrator

Secretary of the Tribunal

Dr. Jonathan Chevry

17 September 2025

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Introduction

The first session of the Tribunal was held on 25 July 2025, at 9 a.m. Washington D.C. time, by video conference via Zoom (“**First Session**”). The First Session was adjourned at 10:42 a.m.

A recording of the Session was made and deposited in the archives of ICSID. The recording was distributed to the Members of the Tribunal and the parties.

Participating in the conference were:

Members of the Tribunal:

Prof. Albert Jan van den Berg, President of the Tribunal
Mr. John Beechey CBE, Arbitrator
Prof. Nassib G. Ziadé, Arbitrator

ICSID Secretariat:

Dr. Jonathan Chevry, Secretary of the Tribunal
Ms. Jaïdat Ali Djaé, Paralegal

On behalf of the Claimant:

Mr. Timothy L. Foden, Boies Schiller Flexner (UK) LLP
Ms. Rebecca Mee, Boies Schiller Flexner (UK) LLP
Ms. Nessa Salvador, Boies Schiller Flexner (UK) LLP
Mr. Michael Losco, Boies Schiller Flexner LLP

On behalf of the Respondent:

Mr. Karfa Gnanou, Agent judiciaire de l’État (AJE)
Mr. Asôrega Désiré Bado, AJE team
Mr. Sansan Charlemagne Kambou, AJE team
Mr. Albert Kaboré AJE team
Mr. Dramane Bitibaly, AJE team

The Tribunal and the parties considered the following:

- The Draft Procedural Orders No. 1 and No. 2 circulated by the Tribunal Secretary on 17 July 2025;
- The parties’ comments on the Draft Procedural Orders No. 1 and No. 2 received on 23 July 2025, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree;

Following the First Session, the Tribunal circulated a revised Draft Procedural Order No. 1 to the parties on August 22, 2025, for their final comments. The parties provided their comments on the revised Draft Procedural Order No. 1 on 29 August and 2 September 2025.

Having considered the above documents and the parties' views, the Tribunal now issues the present Order:

Order

Pursuant to ICSID Arbitration Rules 27 and 29, this Procedural Order sets out the Procedural Rules that govern this arbitration. The timetable is attached as **Annex B**.

1. Applicable Arbitration Rules

Convention Article 44; Arbitration Rule 1

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of 1 July 2022 ("**Arbitration Rules**").

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 21

- 2.1. The Tribunal was constituted on 23 June 2025 in accordance with the ICSID Convention and the 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 Arbitration Rule 19(3)(b). Copies of these declarations were distributed to the parties by the ICSID Secretariat upon acceptance of each arbitrator's appointment on 26 February, 20 and 23 June 2025.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case and that they will use best efforts to meet all time limits for orders, decisions and the Award, in accordance with Arbitration Rule 12(1).
- 2.4. The Members of the Tribunal confirmed that they have reviewed the information communicated by the Claimant in its notice of 24 December 2024, regarding the use of a third-party funder.

3. Fees and Expenses of Tribunal Members

Convention Article 60; Administrative and Financial Regulation 14; ICSID Schedule of Fees; Memorandum on Fees and Expenses

- 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 in force at the time the fees and expenses are incurred.
- 3.2. Non-refundable expenses incurred in connection with a hearing as a result of a postponement or cancellation of the hearing shall be reimbursed by ICSID.

4. Presence and Quorum

Arbitration Rule 33

- 4.1. The participation of a majority of the Members of the Tribunal by any appropriate means of communication is required at the First Session, case management conferences, hearings and deliberations, except as otherwise provided in the Arbitration Rules or unless the parties agree otherwise.

5. Rulings of the Tribunal

Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35

- 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 5.2. Orders, decisions and the Award may be made by any appropriate means of communication.
- 5.3. Orders, decisions and the Award may be signed electronically.
- 5.4. The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.
- 5.5. When the matter is urgent, the President may decide procedural matters without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.
- 5.6. The Tribunal's orders and decisions shall indicate the reasons upon which they are made. The reasons may be minimal for non-controversial or minor procedural, administrative and organizational matters, *e.g.*, extensions of time.
- 5.7. The Tribunal will use best efforts to issue all rulings, including the Award, within the time limits prescribed by the Arbitration Rules. If the Tribunal cannot comply

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with an applicable time limit, it will advise the parties of the special circumstances justifying the delay and the date when it anticipates rendering the ruling, in accordance with Arbitration Rule 12(2).

- 5.8. Any ruling of the Tribunal, including the certified copy of the Award, will be dispatched electronically to the parties.

6. Power to Fix Time Limits

Arbitration Rules 10 and 11

- 6.1. The President may exercise the power delegated to him by the Tribunal to set and extend time limits and to oversee the completion of each procedural step of the proceedings under Arbitration Rules 10(1) and 11(3), in accordance with Arbitration Rules 10(3) and 11(4).
- 6.2. In exercising the power delegated to him by the Tribunal to set time limits under Arbitration Rule 10(1), the President shall consult with the parties as far as possible. If the matter is urgent, the President may fix time limits without consulting the parties, subject to possible reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal

Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Dr. Jonathan Chevry, Legal Counsel, ICSID, or such other person as ICSID may notify the Tribunal and the parties from time to time.
- 7.2. To send copies of communications by email, mail, and courier/parcel deliveries to the ICSID Secretariat, the contact details are:

Jonathan Chevry
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
United States of America
Tel.: [REDACTED]
Fax: + [REDACTED]
Email: [REDACTED]
Paralegal name: Ms. Jaïdat Ali Djaé
Paralegal email: [REDACTED]
ICSID case address: [REDACTED]

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7.3. For local messenger deliveries, the contact details are:

Jonathan Chevy
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036
United States of America
Tel.: [REDACTED]

8. Representation of the Parties
Arbitration Rule 2

8.1. Each party shall be represented by its counsel (below) and may designate additional agents, counsel, or advocates by notifying the Tribunal and the Tribunal Secretary promptly of such designation.

For the Claimant

Mr. Timothy L. Foden
Ms. Nessa Salvador
Ms. Emma Iannini
Boies Schiller Flexner (UK) LLP
100 Fetter Lane
London EC4A 1ES
United Kingdom
Tel.: [REDACTED]
Email: [REDACTED]
[REDACTED]

and

Mr. Michael Losco
Boies Schiller Flexner LLP
55 Hudson Yards
New York, NY 10001
United States of America
Tel.: [REDACTED]
Email: [REDACTED]

For the Respondent

Mr. Karfa Gnanou
Agent judiciaire de l'État
Immeuble Diawara, Avenue Hamado
Paul Yugbare,
Arrondissement n°6 de Ouagadougou
(Secteur n°29, quartier Songnaaba),
03 BP: 7040 Ouagadougou 03;
Tel.: [REDACTED]
Emails: [REDACTED]
[REDACTED]

The Respondent State reserves the right to appoint counsel to assist its representative in further proceedings.

- 8.2. Following the execution of this Procedural Order, any intended change or addition to the list of legal representatives shall be notified promptly in writing to the other party, the Tribunal, and the Tribunal Secretary. The Tribunal may refuse designation of additional agents, counsel, or advocates if the designation would create a conflict of interest with one or more Members of the Tribunal that has not been, or cannot be, waived. The Tribunal will exercise its own discretion in determining the existence of a conflict of interest.

9. Apportionment of Costs and Advance Payments to ICSID – Division of Advances
Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50

- 9.1. The parties shall cover the direct costs of the proceeding in equal parts, without prejudice to the final decision of the Tribunal as to the allocation of costs.
- 9.2. Following registration of the Request for Arbitration, by letter of 23 December 2024, ICSID informed the parties that USD 400,000 will be necessary to cover the estimated costs of the initial phase of the proceeding through the first session of the Tribunal, as well as the subsequent phase, and requested that the Claimant pay USD 200,000. ICSID received the Claimant's payment on 16 January 2025. Upon the constitution of the Tribunal, by letter of 23 June 2025, ICSID requested that the Respondent pay USD 200,000. ICSID has not received the payment from the Respondent to date.
- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

10. Place of Proceeding and Hearings
Convention Articles 62 and 63; Arbitration Rule 32

- 10.1. Washington, D.C., shall be the place of the proceeding.
- 10.2. The Tribunal may hold in-person hearings at any other place that it considers appropriate after consultation with the parties. The method of holding a hearing will be determined in accordance with §21.
- 10.3. The Tribunal Members may deliberate at any place and by any appropriate means they consider convenient.

11. Procedural Language, Translation and Interpretation

Administrative and Financial Regulation 32; Arbitration Rule 7

- 11.1. English and French are the procedural languages of the arbitration.
- 11.2. Any document (*e.g.* written requests, applications, pleadings, expert opinions, witness statements, or supporting documents) shall be filed in either English or French.
- 11.3. Any document in a language other than the procedural languages shall be accompanied by a translation into English or French. It is sufficient to translate only the relevant part of a supporting document, unless the Tribunal orders a party to provide a fuller or a complete translation.
- 11.4. Translations need not be certified, unless the translation is disputed and the Tribunal orders a party to provide a certified translation.
- 11.5. Documents exchanged between the parties pursuant to §15 below (Production of Documents) may be produced in the original language and need not be translated.
- 11.6. The hearing shall be conducted in English and French with simultaneous interpretation into the other procedural language.
- 11.7. The parties will notify the Tribunal as soon as possible, and no later than at the pre-hearing organizational meeting (see §19 below), which witnesses or experts require interpretation.
- 11.8. The testimony of a witness who prefers to give evidence in a language other than English or French shall be interpreted simultaneously into both procedural languages.
- 11.9. The costs of interpretation will be paid from the advance payments made by the parties, without prejudice to the decision of the Tribunal as to which party shall ultimately bear those costs.
- 11.10. The Tribunal may initially make any order or decision in English and subsequently issue that order or decision in French. Both language versions shall be equally authentic.
- 11.11. The Tribunal shall render the Award initially in English and subsequently render the Award in French. Both language versions shall be equally authentic.

12. Routing of Communications

Arbitration Rule 6

- 12.1. The ICSID Secretariat shall be the channel of written communications between the parties and the Tribunal.
- 12.2. 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.
- 12.3. 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.
- 12.4. The Tribunal Secretary shall not be copied on communications between the parties when such communications are not intended to be transmitted to the Tribunal.
- 12.5. In accordance with established practice, the parties and their representatives shall not engage in any oral or written communications with any Member of the Tribunal *ex parte* about this arbitration.
- 12.6. The email addresses of the Members of the Tribunal are:

Prof. Albert Jan van den Berg

Mr. John Beechey CBE

Prof. Nassib G. Ziadé

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

Arbitration Rules 4, 5 and 9

- 13.1. By the relevant filing date, the parties shall:
 - 13.1.1. submit by email to the Tribunal Secretary and the opposing party an electronic version of the pleading with witness statements, expert reports and an index of all supporting documentation ("**Electronic Email Filing**").¹ In case of simultaneous pleadings, each party shall send its pleading within the applicable time-limit to the Tribunal Secretary, who will then dispatch them to the Tribunal and to the other party;
 - 13.1.2. no later than five (5) days after the relevant filing date, upload the pleading with all the supporting documentation and updated index to the file sharing platform that has been created by ICSID for purposes of this case ("**Electronic Platform Filing**").² For the avoidance of doubt, the Electronic Platform Filing is applicable both to the original language pleading and to any subsequent translations; and no later than fifteen (15) days after the

¹ Please note that the World Bank server does not accept emails larger than 25 MB.

² Supporting documentation shall be uploaded as individual files, not in .zip format.

relevant filing date, upload translations of supporting documents which are in a language other than English or French.

- 13.2. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR, .pdf or word). Any spreadsheet or excel table shall be editable and all formulae visible; data used in the creation of spreadsheets and tables should indicate its source to the extent it may be reasonably identifiable.
- 13.3. All pleadings shall contain consecutively numbered paragraphs and shall be accompanied by a cumulative index of all the supporting documentation that the party has submitted up to the date of the pleading. The index shall indicate the document number, the pleading with which it was submitted and shall follow the naming conventions contained in **Annex A**.
- 13.4. At the conclusion of the written phase of the proceeding, on a date to be determined by the Tribunal, or at any other time the Tribunal or the Secretariat so requests, the parties shall upload to the file sharing platform, in a format that can be readily downloaded, an electronic copy of the entire case file (including pleadings, witness statements, expert reports, exhibits, legal authorities and Tribunal decisions and orders to date) with a consolidated, chronological and hyperlinked index of all documents.
- 13.5. The official date of receipt of a pleading or written communication shall be the day on which the electronic file is sent to the Tribunal Secretary by email.
- 13.6. A filing shall be deemed timely if sent by a party by midnight, Washington, D.C. time, on the relevant date. If a filing falls on a Saturday or Sunday, the relevant date is the subsequent business day.
- 13.7. Extensions for the submission of pleadings may be agreed between the parties or granted by the Tribunal for justifiable reasons, provided that such extensions do not affect the dates fixed for any hearing or other meeting and that the request for an extension is submitted as soon as practicable after a party becomes aware of the circumstances which prevent it from complying with the deadline.

14. Number and Sequence of Pleadings – Procedural Calendar
Arbitration Rule 30

- 14.1. The proceedings shall consist of a written phase followed by an oral phase.
- 14.2. The number and sequence of written pleadings shall be as provided in the Procedural Calendar in **Annex B**, except if the Tribunal, upon a showing of good

cause by either party or on its own initiative, or by mutual agreement of the parties, decides to amend the timetable.

- 14.3. Any written submission shall be submitted in accordance with Arbitration Rule 30.
- 14.4. As determined by the Tribunal at the First Session, the Procedural Calendar in **Annex B** sets out the timetable for the exchange of the Memorial and Counter-Memorial. In these submissions, the parties shall set forth all the facts and legal arguments and submit all the documentary and written witness and expert evidence on which they intend to rely in support of their respective cases. Allegations of fact and legal arguments shall be presented in a detailed, specified and comprehensive manner, and shall respond to all allegations of fact and legal arguments made by the other party.
- 14.5. The timing, number, sequence and other matters relating to further pleadings shall be determined by the Tribunal after consultation with the parties at the Case Management Conference to be held on the date indicated in the Procedural Calendar in **Annex B**.
- 14.6. Following each factual allegation, the parties shall, whenever possible, identify the evidence adduced or to be adduced in support of that allegation. Following each legal argument, the parties shall, whenever possible, identify the legal authority adduced or to be adduced in support of that argument.
- 14.7. The parties shall include in their submissions a list of abbreviations.

15. Production of Documents

Convention Article 43(a); Arbitration Rules 5 and 36-40

- 15.1. The parties and the Tribunal shall be guided by Articles 3 and 9 of the 2020 IBA Rules on the Taking of Evidence in International Arbitration (“**2020 IBA Rules**”).
- 15.2. On a date to be determined by the Tribunal after consultation with the parties, each party may **request** from the other party the **production of documents** or categories of documents within the other party’s possession, custody or control. Such a request for production shall take the form of the Redfern Schedule as stipulated by the Tribunal pursuant to the model appended to this Procedural Order as **Annex C**, in both word and .pdf format and shall contain:
 - 15.2.1. a description of each requested document sufficient to identify it, or a description in sufficient detail (including, e.g., subject matter, date or range of dates and the identity of the recipients and senders to the greatest extent possible) of a narrow and specific requested category of documents that are reasonably believed to exist (in the case of documents maintained in

- electronic form, the requesting party may, or the Tribunal may order that it shall be required to, identify specific files, search terms, individuals or other means of searching for such documents in an efficient and economical manner);
- 15.2.2. a statement as to how the documents requested are relevant to the case and material to its outcome;
- 15.2.3. a statement that the documents requested are not in the possession, custody, or control of the requesting party or a statement of the reasons why it would be unreasonably burdensome for the requesting party to produce such documents;
- 15.2.4. a statement of the reasons why the requesting party assumes the documents requested are in the possession, custody, or control of another Party; and
- 15.2.5. cross-references to the relevant sections of the submissions, witness statements or expert reports of the other party where the requested documents or categories of documents are discussed, to facilitate the Tribunal's assessment of their relevance and materiality.
- 15.3. Requests for document production shall not be copied to the Tribunal or the Tribunal Secretary.
- 15.4. The parties will endeavor to limit the number of document production requests to a maximum of twenty-five (25). For the purposes of such limit, multiple sub-requests bundled as a single request shall count as separate requests.
- 15.5. On a date to be determined by the Tribunal after consultation with the parties, the other party shall either produce the requested documents or, using the Redfern Schedule provided by the requesting party, submit its reasons for its failure or refusal to produce responsive documents (objections).
- 15.6. Objections to the production of a document or a category of documents shall be justified on one or more of the grounds identified in Article 9(2) of the 2020 IBA Rules.
- 15.7. Any objection that the requested documents do not exist, are not under the control of the requested party, are not relevant or material, are covered by confidentiality or protected by privilege, or that the request is overbroad or overly burdensome should be particularized in each answer to each request. The parties shall exert their best efforts to avoid copy-pasting boilerplate objections.
- 15.8. The parties shall seek to agree on document production requests to the greatest extent possible, bearing in mind their duty to act in good faith in the taking of

evidence and in conformity with the rules laid down by the Tribunal. Accordingly, requests for production must be narrow and specific and a party objecting to a request on grounds that it is overbroad or excessively burdensome should indicate whether there is a narrower formulation with which it would be willing to comply.

- 15.9. On a date to be determined by the Tribunal after consultation with the parties, the requesting party may seek an order for the production of the documents requested and not produced, in which case it shall reply to the other party's objections in that same Redfern Schedule. At the same time, it shall submit the word and .pdf copies of the Redfern Schedule to the Tribunal.
- 15.10. In the response to objections, the requesting party should indicate, in addition to any comments on the other party's objection to its original formulation, whether it would be willing to accept a narrower formulation of the request.
- 15.11. A party alleging confidentiality or privilege as a ground for not producing specific documents under a request which has been accepted by such party or granted by the Tribunal must establish the basis for its allegation in a privilege log to be submitted to the other party.
- 15.12. When ruling on objections based on confidentiality or privilege the Tribunal shall apply the standard it considers appropriate.
- 15.13. The parties shall make no submissions in respect of the steps set out in §§ 15.2, 15.5, 15.9 and 15.10 other than those incorporated in the Redfern Schedule.
- 15.14. On or around the date to be determined by the Tribunal after consultation with the parties, the Tribunal will, at its discretion, rule upon the production of the documents or categories of documents having regard to the legitimate interests of the parties and all the relevant circumstances, including applicable privileges and if appropriate, the burden of proof.
- 15.15. Documents which the Tribunal orders to be produced shall be communicated directly to the requesting party without copying the Tribunal on a date to be determined by the Tribunal after consultation with the parties. Documents so communicated shall not be considered to be on record unless and until a party subsequently files them as exhibits in accordance with §16 below.
- 15.16. The disclosure of documents under this section shall be made electronically through a file sharing platform which can be accessed by counsel to the parties, in .pdf format or some other similar format to which the parties may later agree. On the date of the production, each party shall provide the other party with (i) a list of the documents that it is producing and the request number to which the document is responsive and (ii) a declaration by the party and external counsel affirming that all relevant searches were conducted to identify and produce all responsive documents.

- 15.17. If a party fails to produce documents ordered by the Tribunal, the Tribunal may deem, in light of all circumstances including the reasons advanced by a party to explain its inability to produce any given document, that the document is adverse to the interests of that party.
- 15.18. The parties have a continuing obligation to produce responsive documents after the conclusion of the document production phase.

16. Submission of Documents

Convention Article 44; Arbitration Rule 5

- 16.1. The Memorial and Counter-Memorial shall be accompanied by the documentary evidence relied upon by the parties, including exhibits and legal authorities. Reference to documentary evidence includes audiovisual evidence.
- 16.2. The documents shall be submitted in the manner and form set forth in §13 above.
- 16.3. Neither party shall be permitted to submit additional or responsive documents after the filing of its respective last written submission, unless the Tribunal determines that special circumstances exist based on a timely and reasoned written application followed by observations from the other party.
 - 16.3.1. Should a party request leave to file additional or responsive documents, that party may not annex the documents that it seeks to file to its request.
 - 16.3.2. If the Tribunal grants such an application for submission of an additional or responsive document, the Tribunal shall ensure that the other party is afforded sufficient opportunity to make its observations concerning such document.
- 16.4. The Tribunal may call upon the parties to produce documents or other evidence in accordance with Arbitration Rule 36(3).
- 16.5. Documents shall be submitted in the following form:
 - 16.5.1. The number of each Exhibit containing a document produced by the Claimant shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities etc. The number for each Exhibit containing a document produced by the Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities etc.

- 16.5.2. Factual exhibits and legal exhibits shall be numbered consecutively throughout these proceedings, commencing with “C-0001” and “R-0001,” and “CL-001” and “RL-001” respectively. The number of the factual and legal exhibit shall appear on the first page of the document, and shall be incorporated into the file name in accordance with §16.5.4.
- 16.5.3. A party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.
- 16.5.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 16.6. 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.
- 16.7. The parties shall file all documents only once by submitting them with their pleadings. Documents need not be resubmitted with witness statements even if referred to in such statements.
- 16.8. The parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, etc. compiling information which is on record but not presented in such form), provided that they (i) identify the source in the record from which the information is derived, (ii) do not contain information not in the record.
- 16.9. In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the parties shall upload such demonstrative exhibit to the case folder in the BOX files sharing platform, designating each with the corresponding CD-__ or RD-__ number.

17. Witness Statements and Expert Reports
Convention Article 43(a); Arbitration Rule 38

- 17.1. Witness statements and expert reports shall be filed together with the parties’ submissions.
- 17.2. Neither party shall be permitted to submit any testimony that has not been filed with the written submissions, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other party (following the procedure outlined in §16.3).
- 17.3. Each witness statement and expert report shall be signed and dated by the witness.

18. Examination of Witnesses and Experts

Arbitration Rule 38

- 18.1. On a date to be determined by the Tribunal after consultation with the parties, each party shall identify the witnesses and experts of its opponent whom it intends to cross-examine.
- 18.2. Each party shall be responsible for summoning its own witnesses and experts to the hearing, except when the other party has waived cross-examination of a witness and the Tribunal does not direct his or her appearance.
- 18.3. Each party shall be responsible for the practical arrangements, costs, and availability of any witness and expert it offers. The Tribunal will decide upon the appropriate allocation of any related costs in the final award.
- 18.4. If a witness or expert fails to appear when first summoned to a hearing, the Tribunal may in its discretion summon the witness or expert to appear a second time if satisfied that (i) there was a compelling reason for the first failure to appear; (ii) the testimony of the witness or expert appears relevant; and (iii) providing a second opportunity for the witness or expert to appear will not unduly delay the proceedings.
- 18.5. The Tribunal may allow a witness or expert to be examined by videoconference (in the context of an online hearing or otherwise) and will issue appropriate directions.
- 18.6. The Tribunal may consider the written statement of a fact witness who provides a valid reason for failing to appear when summoned to a hearing, or of a fact witness who was not called for cross-examination, having regard to all the surrounding circumstances. The Tribunal shall not consider the witness statement of a fact witness who fails to appear and does not provide a valid reason.
- 18.7. The Tribunal shall not consider the expert evidence of an expert witness who fails to appear when summoned to a hearing, unless exceptional circumstances warrant his/her non-appearance (e.g., circumstances beyond the expert's control or the control of the party presenting the expert).
- 18.8. At the hearing, the examination of each witness or expert shall proceed as follows:
 - 18.8.1. The party who has presented the witness may briefly examine the witness for purposes of asking introductory questions, including about any corrections to be made to the written statement, and of addressing matters which have arisen after the last opportunity for the party who presented the witness to file witness statements (direct examination). In principle, direct examination shall not exceed 10 minutes;

- 18.8.2. In lieu of direct examination, any expert giving oral evidence may give a presentation summarizing her or his expert report(s) not exceeding 30 minutes;
- 18.8.3. The other party may then cross-examine the witness or expert about relevant facts within the witness or expert's knowledge but not necessarily limited to facts addressed in the witness statement or relevant issues within the expert's expertise but not necessarily limited to the contents of the expert report;
- 18.8.4. The party who has presented the witness or expert may then re-examine the witness or expert with respect to any matters or issues arising out of the cross-examination (if it so chooses);
- 18.8.5. Re-cross examination may exceptionally be allowed in the Tribunal's discretion;
- 18.8.6. The Tribunal may ask questions at any time.
- 18.9. Subject to other arrangements during the pre-hearing organizational meeting, fact witnesses shall be examined prior to expert witnesses, the Claimant's fact (and expert) witnesses being examined prior to the Respondent's fact (and expert) witnesses and each party determining the order of the fact witnesses whom it presents.
- 18.10. Subject to a different agreement by the parties, a fact witness shall not be present in the hearing room during oral testimony and arguments, or read the transcript of oral testimony or argument, prior to his or her examination. This limitation does not apply to expert witnesses. Party representatives who are also fact witnesses may be present during opening submissions.
- 18.11. The Tribunal shall, at all times, have complete control over the procedure for hearing a witness. In particular, but without limiting the foregoing, the Tribunal may in its discretion:
 - 18.11.1. limit or refuse the right of a party to examine a witness when it appears that a question has been addressed by other evidence or is irrelevant; or
 - 18.11.2. direct that a witness be recalled for further examination at any time.

19. Pre-Hearing Organizational Meetings

Arbitration Rule 31

- 19.1. A pre-hearing organizational meeting shall be held on a date to be determined by the Tribunal after consultation with the parties. The pre-hearing organizational meeting shall be held no later than four weeks before the start of the hearing. It shall comprise a teleconference or videoconference between the Tribunal, or its President, and the parties and should address any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.
- 19.2. At a date to be determined by the Tribunal after consultation with the parties, and in any event no later than the date of the pre-hearing conference, the parties shall submit to the Tribunal jointly – or, where they are unable to agree, separately – a proposal regarding a daily schedule for the hearing.

20. Case Management Conferences

Arbitration Rule 31

- 20.1. The Tribunal shall convene case management conferences with the parties in accordance with Arbitration Rule 31 in order to (i) put in place a process to identify uncontested facts (*e.g.*, through the submission of a joint chronology of facts); (ii) clarify and narrow the issues in dispute (*e.g.*, by addressing tribunal questions, or submitting a decision tree, road map, matrix(es) and/or skeleton arguments); or (iii) address any other procedural or substantive issue related to the resolution of the dispute (*e.g.*, the appointment of a Tribunal-appointed expert, or the production of evidence).

21. Hearings

Arbitration Rule 32

- 21.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 21.2. The hearing may be held in-person or by any other means of communication as determined by the Tribunal after consultation with the parties. An in-person hearing shall be held at a place to be determined in accordance with §10.2 above.
- 21.3. Having due regard to the views of the parties and the specific circumstances of the case, including any relevant travel or public health/security restrictions, the Tribunal may decide to hold a hearing remotely or in a hybrid form.

Procedural Order No. 1

- 21.4. The hearing shall take place on the date(s) to be determined by the Tribunal after consultation with the parties.
- 21.5. The Members of the Tribunal shall determine the next steps following the hearing, including in relation to deliberations.
- 21.6. The Tribunal shall conduct hearings open to the public and shall determine, in consultation with the parties, the appropriate logistical arrangements. The Tribunal may hold portions of hearings in camera to the extent necessary to ensure the protection of confidential information.
- 21.7. Allocation of time and other procedural issues related to the hearing will be discussed by the parties and the Tribunal during the pre-hearing organizational meeting.

22. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

- 22.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the parties and the Tribunal Members.
- 22.2. Verbatim transcript(s) in the procedural languages 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, if possible, be available in real-time and electronic transcripts shall be provided to the parties and the Tribunal on a same-day basis.
- 22.3. The parties shall agree on any corrections to the transcripts within 30 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the parties and/or court reporter in the transcripts (“revised transcripts”). The Tribunal shall decide upon any disagreement between the parties and any correction adopted by the Tribunal shall be entered by the parties and/or court reporter in the revised transcripts.

23. Transparency Matters

Convention Article 48(5), Arbitration Rules 62-66

- 23.1. The parties agree that the transparency regime governing these proceedings is dealt with in Procedural Order No. 2.

24. Data Privacy and Cybersecurity

- 24.1. The Members of the Tribunal, the parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this arbitration proceeding. They acknowledge having read ICSID's "[Personal Data Privacy Notice – Proceedings](#)" ("Notice").
- 24.2. The Members of the Tribunal, the parties and their representatives agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in the arbitration proceeding, where necessary, including witnesses and experts. Should compliance with applicable law require action from another participant in the arbitration proceeding, the parties are invited to bring that to the attention of that other participant and/or to apply to the Tribunal for specific data protection measures to be put in place.
- 24.3. The parties and their representatives shall ensure that the storage and exchange of the personal data processed in this arbitration is protected by way of appropriate technical and organizational safeguards.

25. Amicable Dispute Settlement

- 25.1. The Tribunal notes that the parties may seek to reach an amicable settlement of all or part of the dispute, including through mediation under the ICSID Mediation Rules, at any time in the proceeding. If the parties settle the dispute in full, they may request that the Tribunal embody their settlement in its Award, pursuant to Arbitration Rule 55(2). Any agreement pursuant to Arbitration Rule 54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.

26. Participation in the Arbitration for Persons with Special Needs

- 26.1. At any point during the proceedings, but ideally as soon as practicable, either party may advise the Tribunal of a person who, by reason of disability, requires reasonable accommodation to facilitate their full participation in the arbitration, including site visits and oral hearings. In considering such requests, the Tribunal will take account of the privacy rights of such persons against the unnecessary disclosure of their disability. For the purposes of this provision, disability means any physical or mental health condition that, without reasonable accommodation, would significantly impair a person's ability to participate in work related to an arbitration.

On behalf of the Tribunal,

[signature]

Prof. Albert Jan van den Berg

President of the Tribunal

Date: 17 September 2025

Annex A – Electronic File Naming Guidelines

Please follow these guidelines when naming electronic files and for the accompanying Consolidated Index. The examples provided (in *italics*) are for demonstration purposes only and should be adapted to the relevant phase of the case.

All pleadings and accompanying documentation shall indicate the LANGUAGE in which they are submitted (e.g. FR=French; ENG= English). Such indication should be reflected both i) in the name used to identify each individual electronic file and ii) in the Consolidated Index (which shall be attached to each submission).

For cases with a single procedural language, the “LANGUAGE” designation may be omitted, except for documents in a language other than the procedural language and the corresponding translations.

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
MAIN PLEADINGS	Title of Pleading –LANGUAGE
	<i>Memorial on Jurisdiction-FR</i>
	<i>Counter-Memorial on the Merits and Memorial on Jurisdiction-ENG</i>
	<i>Reply on Annulment-FR</i>
	<i>Rejoinder on Quantum-ENG</i>
SUPPORTING DOCUMENTATION	C-####-LANGUAGE
	R-####-LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S FACTUAL EXHIBITS
	<i>C-0001-ENG</i>
	<i>C-0002-FR</i>
	RESPONDENT’S FACTUAL EXHIBITS
	<i>R-0001-FR</i>
	<i>R-0002-ENG</i>
Legal Authorities	CL-####-LANGUAGE
	RL-####-LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S LEGAL AUTHORITIES
	<i>CL-0001-ENG</i>
	<i>CL-0002-FR</i>
	RESPONDENT’S LEGAL AUTHORITIES
	<i>RL-0001-FR</i>
	<i>RL-0002-ENG</i>
Witness Statements	Witness Statement-Name of Witness-Name of Submission-LANGUAGE
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-FR</i>

	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
Expert Reports	<i>Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE</i>
	<i>Expert Report-Lucia Smith-Valuation-Memorial on Quantum-ENG</i>
	<i>Expert Report-Lucia Smith-Valuation-Reply on Quantum-[Second Report]-ENG</i>
Legal Opinions	<i>Legal Opinion-Name of Expert-Name of Submission-LANGUAGE</i>
	<i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits-FR</i>
	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]-FR</i>
Exhibits to Witness Statements, Expert Reports, Legal Opinions	WITNESS/EXPERT INITIALS-###
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i>
	<i>MJ-0001</i>
	<i>MJ-0002</i>
	<i>For exhibits filed with the Legal Opinion of [Tom Kaine]</i>
	<i>TK-0001</i>
	<i>TK-0002</i>
	<i>For exhibits filed with the Expert Report of [Lucia Smith]</i>
	<i>LS-0001</i>
	<i>LS-0002</i>
INDICES	Consolidated Index
	Index of Exhibits-C-#### to C-####
	<i>Index of Exhibits-C-0001 to C-0023</i>
	Index of Legal Authorities-RLA-### to RLA-###
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
OTHER APPLICATIONS	Name of Application-[Party]-LANGUAGE
	<i>Preliminary Objections under Rule 41(5)-FR</i>
	<i>Request for Bifurcation-ENG</i>
	<i>Request for Provisional Measures-[Respondent]-FR</i>
	<i>Request for Production of Documents-[Claimant]-FR</i>
	<i>Request for Stay of Enforcement-FR</i>
	<i>Request for Discontinuance-[Claimant]-ENG</i>
	<i>Post-Hearing Brief-[Claimant]-ENG</i>
	<i>Costs Submissions-[Respondent]-ENG</i>
	<i>Observations to Request for [XX]-[Claimant]-ENG</i>

Annex B – Schedule

	Procedural step	Author	Interval	Date
1.	Procedural Order No. 1	Tribunal	As soon as possible after the First Session	16 September 2025
2.	Memorial	Claimant	98 days from First Session	31 October 2025
3.	Counter-Memorial on Merits and Counterclaim, if any, and Memorial on Jurisdiction, if any	Respondent	92 days from Memorial	31 January 2026
4.	Case Management Conference	All	17 days from Counter-Memorial	17 February 2026
5.	Document production requests	parties	TBD	TBD
6.	Objections to document production requests and/or voluntary production of documents	parties	TBD	TBD
7.	Replies to objections to document requests	parties	TBD	TBD
8.	Decision on the parties' requests for production of documents	Tribunal	TBD	TBD
9.	Production of documents ordered by the Tribunal	parties	TBD	TBD
10.	Reply on the Merits and Counter-Memorial on Jurisdiction (if applicable)	Claimant	TBD	TBD
11.	Rejoinder on the Merits	Respondent	TBD	TBD
12.	Identification of witnesses and experts to be called at the hearing	parties	TBD	TBD

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	Procedural step	Author	Interval	Date
13.	Pre-hearing organizational meeting (to be held by telephone conference or videoconference)	parties and the Tribunal (or President)	TBD	TBD
14.	Hearing	All	TBD	TBD
15.	Post-hearing briefs/final oral submissions (to be discussed at the end of the hearing) (if applicable)	parties	TBD	TBD
16.	Final Award	Tribunal	TBD	TBD

Annex C – Model Redfern Schedule for Document Requests

No.	Document(s) or Category of Documents Requested	Relevance and Materiality according to Requesting Party		Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decision
		Ref. to Submissions	Comments			