

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Brookfield Corporation

v.

Republic of Peru

(ICSID Case No. ARB/25/14)

PROCEDURAL ORDER NO. 2
On Transparency and Confidentiality

Members of the Tribunal

Ms. Lucinda A. Low, President of the Tribunal
Prof. Zachary Douglas, KC, Arbitrator
Prof. Dr. Stephan Schill, Arbitrator

Secretary of the Tribunal

Ms. Marisa Planells-Valero

July 6, 2026

I. INTRODUCTION

1. Pursuant to paragraph 24 of Procedural Order No. 1 dated June 18, 2026 (“PO1”), and in accordance with Article 835.2 of the Free Trade Agreement between the Government of Canada and the Republic of Peru signed on May 29, 2008 and in force since August 1, 2009 (the “FTA”) and the 2022 ICSID Arbitration Rules, this Procedural Order No. 2 (“PO2”), along with the relevant provisions of PO1, the 2022 ICSID Arbitration Rules and the FTA, will govern the transparency regime applicable to the present arbitration, as well as the designation and use of Confidential Information.

II. PROCEDURAL BACKGROUND

2. On May 4, 2026, the Tribunal circulated a draft of this order (“Draft PO2”) for discussion by the Parties.
3. On May 25, 2026, the Parties commented on Draft PO2.
4. On May 28, 2025, the first session was held. During the first session, the Parties and the Tribunal discussed the Parties’ comments on Draft PO2 and the Draft PO1.
5. Further comments on Draft PO2 were received from the Parties on June 5 and 24, 2026.
6. This PO2 contains the Parties’ agreements and the Tribunal’s decisions concerning the transparency regime governing this case.

III. DEFINITIONS (ARTICLES 835, 836 AND 847 OF THE FTA)

7. For the purposes of this Procedural Order:
 - i. “Disputing Party” or “Party” means either Brookfield Corporation or the Government of the Republic of Peru.
 - ii. “Non-Disputing Party” means the Government of Canada.
 - iii. “Applicant” means any person or entity that is not a Disputing Party or a Non-Disputing Party that applies to file a written submission pursuant to Article 836 of the FTA and satisfies the requirements of Article 836.4-5 of the FTA.
 - iv. “Confidential Information” means and includes information which is treated as Confidential or Protected Information as set forth in ICSID Arbitration Rule 66, as well as under relevant provisions of the FTA, that being:
 - a) business confidential information and information that is privileged or otherwise protected from disclosure in accordance with Article 847 of the FTA;
 - b) information which is protected from public disclosure: (a) by the instrument of consent to arbitration; (b) by the applicable law or applicable rules; (c) in the case of information of a State party to the dispute, by the law of that State; (d) in accordance with the orders and

decisions of the Tribunal; (e) by agreement of the parties; (f) because it constitutes protected personal information; (g) because public disclosure would impede law enforcement; (h) because a State party to the dispute considers that public disclosure would be contrary to its essential security interests; (i) because public disclosure would aggravate the dispute between the parties; or (j) because public disclosure would undermine the integrity of the arbitral process.

IV. PUBLICATION OF DOCUMENTS (ARTICLES 835 AND 836 OF THE FTA)

8. In accordance with Article 835(3) of the FTA, the Disputing Parties have agreed that: (i) all pleadings (but not witness statements, expert opinions, exhibits, legal authorities and annexes) submitted to the Tribunal; and (ii) all Procedural Orders and Decisions issued by the Tribunal shall be publicly available, unless the Disputing Parties agree otherwise, subject to the redaction of Confidential Information, in accordance with Section VI.B below.
9. Any Applicant will have access only to publicly available information, pursuant to Articles 835 and 836.8 of the FTA.
10. In accordance with Article 835(4) of the Canada-Peru FTA, the Award shall be publicly available and will be published by the ICSID Secretariat on its website, subject to the redaction of Confidential Information. The procedure for the redaction of Confidential Information from the Award prior to publication is addressed at Section VI.C below.

V. PUBLICITY OF HEARINGS (ARTICLES 832, 835 AND 836 OF THE FTA)

11. In accordance with Article 836 of the FTA, hearings shall be open to the public.
12. Hearings will be video recorded, and the video recordings will be streamed in English and Spanish on the ICSID website as soon as possible after the conclusion of the hearing, subject to a procedure to ensure that Confidential Information is not disclosed to the public. An announcement to this effect will be published on the ICSID website.
13. Pursuant to Article 832.2 of the FTA, the Non-Disputing Party (Canada) may attend hearings in person or, if the hearing is held by videoconference, may attend virtually. Physical attendance in the hearing room by third parties will not be permitted.
14. The Tribunal may establish further protocols for the conduct of the public Hearing and the protection of Confidential Information at a later stage, in consultation with the Disputing Parties.

VI. ACCESS TO AND REDACTION OF CONFIDENTIAL INFORMATION

A. Access to Confidential Information

15. Confidential Information, as defined in paragraph 7.iv above, shall not be made available to any person not involved in this arbitration. For the avoidance of doubt, unredacted versions of documents containing Confidential Information may be used only in these proceedings and may be disclosed, exclusively in connection with these proceedings, to and among:
- i. counsel to a Disputing Party;
 - ii. officials or employees of the Disputing Parties who have a role in the arbitration and, in that context, require access to the information, including all permanent and non-permanent members of the Special Commission Representing the Republic of Peru in International Investment Disputes;
 - iii. independent experts or consultants retained or consulted by the Disputing Parties in connection with these proceedings;
 - iv. individuals whom a Disputing Party or its counsel have a legitimate interest in communicating with in order to discuss the preparation of that Disputing Party's pleadings or expert, witness and/or documentary evidence, to the extent that the provision of the Confidential Information is reasonably necessary;
 - v. the Members of the Tribunal;
 - vi. the ICSID Secretariat and persons employed by the ICSID Secretariat, including counsel, secretaries, court reporters, translators and any clerical or administrative personnel; and
 - vii. officials of the Non-Disputing Party (Canada) who have a role in the arbitration and, in that context, require access to the Confidential Information.
16. All persons receiving material in this proceeding containing Confidential Information shall be bound by this Order to keep such Information confidential. Each Disputing Party shall have the obligation of notifying all persons receiving such material of the obligations under this Order.

B. Procedure for Redaction of Confidential Information from Documents other than the Award

17. No documents related to this proceeding will be published by ICSID or otherwise made public until after the issuance of the Final Award.
18. The Disputing Parties shall give notice within 60 days from the issuance of the Final Award that they seek protection of Confidential Information from documents other than the Award and object to its disclosure to any person other than those listed at paragraph 15 above, or, if covered by paragraph 8 above, to its publication in whole or in part. Such notice shall (i) specifically identify the document or part(s) thereof sought to be designated as Confidential Information, and (ii) be accompanied by the moving Party's proposed redactions. In the absence of such notice, the Tribunal

will authorize the publication of any document mentioned in paragraph 8 above without redactions.

19. The other Disputing Party may raise reasoned objections to the requested redaction(s) within 30 days of the notice referred to in paragraph 18 above. The notice under paragraph 18 and any objections under paragraph 19 shall be submitted in the form attached as **Annex A**.
20. In the absence of an objection, the information which is the subject of the notice at paragraph 18 above shall be considered Confidential Information and the Tribunal will authorize the publication of the document(s) by the ICSID Secretariat only with any redactions proposed by the moving Party in the notice. Within 7 days of such authorization, the moving Party shall provide a redacted version of the relevant document(s) for publication. If the entire document is the subject of a notice as per paragraph 18, the Tribunal will not authorize its publication.
21. In the event of an objection, the Parties shall confer and seek to agree on redactions within 14 days of receipt of the objections to the proposed redactions and, if they fail to do so, submit the Transparency Schedule set out in **Annex A** within the same 14-day time period. The procedure shall be as follows:
 - i. The Party seeking redactions shall share with the Party opposing the redactions within 7 days of receipt of the objections the Transparency Schedule with comments included in the following sections: information sought to be protected from disclosure, legal basis for protection, and comments.
 - ii. The Party opposing redactions shall then have the option to withdraw any objections, which shall be promptly notified to the other Party and the Tribunal (or, in the event of a final Award, the Acting Secretary-General).
22. If objections remain unresolved, the disputed redaction requests and the objections thereto shall be submitted by the Party opposing the redactions to the Tribunal in the form of the Transparency Schedule set out in **Annex A** to this Order with its comments included in the following section: Reply by opposing Party. The Tribunal shall endeavor to decide all such disputes within 30 days. If the Tribunal decides that the identified information is to be treated as Confidential Information, the moving Party shall provide a redacted version of the document within 7 days of the Tribunal's decision. The Tribunal will thereafter authorize publication of the redacted document by the ICSID Secretariat.
23. If the Parties reach an agreement, they shall inform the Tribunal (or, in the event of a final Award, the Acting Secretary-General) and the Tribunal (or, in the event of a final Award, the Acting Secretary-General) will authorize ICSID to publish the document at issue with the agreed redactions. No transparency schedule will be submitted by the Parties.

C. Procedure for Redaction of Confidential Information from the Award

24. The same procedure provided in Section VI.B shall apply *mutatis mutandis* to the redaction of Confidential Information from the Award.
25. The Members of the Tribunal will be compensated for time spent in the resolution of any disputes in connection with redaction of Confidential Information in the Award or in documents other than the Award in accordance with paragraph 3 of PO1, with their claims being paid from the case fund administered by ICSID for this proceeding pursuant to ICSID Administrative and Financial Regulations. However, the Parties agree that as the arbitration proceeding formally concludes with the dispatch of the Award, any costs incurred after the dispatch of the Award (e.g., for arbitrator fees for time spent addressing disputed Confidential Information designations) will not be considered part of the “costs of the proceeding” for purposes of Rule 50 of the ICSID Arbitration Rules.

VII. REPOSITORY OF PUBLISHED INFORMATION

26. ICSID shall act as Repository of published information.
27. The following rules shall apply in connection with the Repository:
 - i. The Tribunal will submit the documents for publication (in redacted form, if and as applicable) to the Repository;
 - ii. The Repository will publish information and documents in the format and language in which it receives it; and
 - iii. Upon completion of this arbitration, documents referred to in Section IV above shall continue to be made available to the public on the ICSID website.

On behalf of the Tribunal,

[signed]

Ms. Lucinda Low
President of the Tribunal
Date: July 6, 2026

ANNEX TO PROCEDURAL ORDER NO. 2
TRANSPARENCY SCHEDULE

[insert Party]	Request [1]
Information sought to be protected from disclosure	
Legal basis for protection	
Comments	
Reply by opposing Party	
Decision	