

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

PanAfrican Energy Corporation

v.

United Republic of Tanzania

(ICSID Case No. ARB/25/42)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Prof. Andrea Bjorklund, President of the Tribunal

Mr. Cavinder Bull SC, Arbitrator

Prof. Dr. Mohamed S. Abdel Wahab, Arbitrator

Secretary of the Tribunal

Ms. Izabela Chabinska

19 June 2026

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Introduction

The first session of the Tribunal was held on 27 April 2026¹, at 8:05 a.m. EST, by video conference via Zoom. The session was adjourned at 10:40 a.m. EST.

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. Andrea Bjorklund	President of the Tribunal
Mr. Cavinder Bull SC	Arbitrator
Prof. Dr. Mohamed S. Abdel Wahab	Arbitrator

ICSID Secretariat:

Ms. Izabela Chabinska	Secretary of the Tribunal
Ms. Ekaterina M. Polifron	ICSID Senior Paralegal

On behalf of the Claimant:

Mr. David Hunt	Partner, Boies Schiller Flexner (UK) LLP
Ms. Veronika Lakhno	Associate, Boies Schiller Flexner (UK) LLP
Mr. Matthew Rogers	Solicitor, Boies Schiller Flexner (UK) LLP
Ms. Serra Okumuş	Senior Paralegal, Boies Schiller Flexner (UK) LLP

Parties:

Ms. Lisa Mitchell	Director, PanAfrican Energy Corporation, Chief Financial Officer, Orca Energy Group
Mr. Andrew Hanna	Managing Director, PanAfrican Energy Tanzania Ltd

On behalf of the Respondent:

Saddy Rashid Sevingi	Director of Arbitration, Office of the Solicitor General
Baraka Nyambita	Senior State Attorney, Office of the Solicitor General
Rehema Mtulya	Senior State Attorney, office of the Solicitor General
Lydia Thomas	Senior State Attorney, Office of the Solicitor General
Neisha Shao	Senior State Attorney, Office of the Solicitor General
Susana Joseph	State Attorney, Office of the Solicitor General
Erigh Rumisha	State Attorney, Office of the Solicitor General
Dr. Elias Mwashuiya	Director of Legal Services, TPDC
Sundi Mahalu	Director of Legal Services, TANESCO
John Mgayambasa	Director of Legal Services, TANOIL-TPDC

Parties:

Mwema Punzi	Principal State Attorney, the Office of the Attorney General
Mussa Makame	Director General, TPDC

¹ As noted in ICSID's Letter of 27 February 2026, based on the Parties' communications of 25 and 26 February 2026, the Parties have agreed to extend the 60-day period to hold the first session set out in ICSID Arbitration Rule 29(3).

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Mr. Lazaro Twange
Felix Nanguka

Managing Director, TANESCO
Ag. Development and Production Manager, TPDC

The Tribunal and the Parties considered the following:

- The Draft Procedural Order No. 1 circulated by the Tribunal Secretary on 11 March 2026; and
- The Parties' respective comments on the Draft Procedural Order No. 1 received on 22 April 2026, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

As discussed at the first session, the Parties were invited to confer and inform the Tribunal of their agreement in relation to the procedural timetable. The Parties filed further written submissions in relation to the procedural timetable on 15 and 21 May 2026 respectively. Following the Parties' further exchanges of 22 and 24 May 2026, the Tribunal confirmed, on 27 May 2026, that it would determine the final procedural timetable based on both Parties' submissions of 15 and 21 May 2026. The Parties filed further written submissions on procedural matters addressed at the first session on 10 and 17 June 2026.

Having considered the above documents and the Parties' views discussed at the First Session, 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 ("**ICSID Arbitration Rules**").

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 21

- 2.1. The Tribunal was constituted on 13 February 2026 in accordance with the ICSID Convention and the ICSID 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 ICSID 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 27 October 2025, 23 December 2025, and 13 February 2026.

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- 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 ICSID Arbitration Rule 12(1).
- 2.4. The Parties confirm and acknowledge that each Party's appointment of identical co-arbitrators in ICSID Case No. ARB/25/43 and this proceeding, does not give rise to issues of independence and impartiality of the Tribunal Members. The Parties confirm and acknowledge that they will not challenge a Party-appointed arbitrator solely on the basis that the arbitrator has also been appointed in ICSID Case No. ARB/25/43.
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.
4. Presence and Quorum
Arbitration Rule 33
 - 4.1. The participation of all three Members of the Tribunal by any appropriate means of communications is required at the first session and case management conferences.
 - 4.2. The participation of all three Members of the Tribunal is required at all hearings and deliberations.
5. Rulings of the Tribunal
Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35
 - 5.1. Orders, decisions and award(s) of the Tribunal and all procedural matters shall be decided 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 any such decision by the full Tribunal.

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- 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 ICSID Arbitration Rules. If the Tribunal cannot comply 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 ICSID 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. The Tribunal shall upon the request by either Party issue a wet-ink signed original of the rulings, including the Award. The date of the rulings or Award shall be the date on which any ruling or Award is electronically dispatched to the Parties. The Parties confirm that in the event a wet-ink original is requested, each Tribunal Member can sign the rulings or the Award at their respective geographical location.

6. Power to Fix Time Limits
Arbitration Rules 10 and 11

- 6.1. The President may exercise the Tribunal's power to fix and extend time limits for the completion of each procedural step in the proceeding under Arbitration Rules 10(1) and 11(3), in accordance with Arbitration Rules 10(3) and 11(4).
- 6.2. In exercising the power to fix 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 any such decision by the full Tribunal at the request of either Party.
- 6.3. The Parties shall strictly comply with the time limits set by the Tribunal. For any extension, a reasoned request shall be made promptly after the need for the extension arises and, in any event, before the date of expiration of the time limit.
- 6.4. If one of the Parties fails to observe a time limit or to adhere to the procedural rules as set forth in this Procedural Order or any subsequent Procedural Order or instruction from the Tribunal without giving sufficient reasons for such default or non-compliance, the Tribunal may, but is not bound to, disregard the factual allegations, denials and offers of that evidence.

7. Secretary of the Tribunal
Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Ms. Izabela Chabinska, 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:

Procedural Order No. 1

Ms. Izabela Chabinska
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Washington, D.C. 20433
United States of America
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Fax: + 1 (202) 522-2615
Email: [REDACTED]
Paralegal name: Ms. Ekaterina Minina
Paralegal email: [REDACTED]
ICSID case address: [REDACTED]

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

Ms. Izabela Chabinska
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036
United States of America
Tel.: +1 (202) 458-1534

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. 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. In determining the existence of such a conflict of interest, the Tribunal may rely on the IBA Guidelines on Conflicts of Interest in International Arbitration (2024) for guidance, in particular the Non-Waivable Red List and the Waivable Red List.

For the Claimant

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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 make advance payments to 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 4 September 2025, ICSID informed the Parties that USD 200,000 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 100,000. ICSID received the Claimant's payment on 10 September 2025. Upon the constitution of the Tribunal, by letter of 20 February 2026, ICSID requested that the Respondent pay USD 100,000. ICSID received the Respondent's payment in two tranches, on 20 March 2026 and 13 May 2026.
- 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. The Parties agree that the place of the proceeding will be London, England.

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- 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 §21.2.
- 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 is the procedural language of the arbitration.
- 11.2. The Tribunal and the Secretariat shall communicate with the Parties in the English language.
- 11.3. Documents filed in any other language must be accompanied by a translation into English.
- 11.4. 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. The partial translation must provide sufficient context.
- 11.5. Translations need not be certified, unless the translation is disputed and the Tribunal orders a Party to provide a certified translation.
- 11.6. Documents exchanged between the Parties in a language other than English under §15 below (Production of Documents) need not be translated.
- 11.7. The Parties will notify the Tribunal which witnesses or experts require interpretation, no later than when notifying which witnesses and experts are called for examination at the hearing (see **Annex B** – Schedule below) and as soon as possible.
- 11.8. The testimony of a witness called for examination during the hearing required to give evidence in a language other than in English shall be interpreted, simultaneously if possible.
- 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.

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, once ICSID has received both Parties' communications.
- 12.4. The Tribunal Secretary shall not be copied on direct communications between the Parties when such communications are not intended to be transmitted to the Tribunal.
- 12.5. 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.

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**");² and
 - 13.1.2. no later than three (3) business days after the Electronic Email Filing, 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**").³
- 13.2. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word). File names shall not exceed 25 characters in length, including spaces. A Party shall be required, on written request by the other Party, to provide the native version (if available) of any exhibit filed in the arbitration.
- 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 and 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 hyperlinked index of all documents.⁴

² Please note that the World Bank server does not accept emails larger than 25 MB.

³ Supporting documentation shall be uploaded as individual files, not in .zip format.

⁴ To ensure the full operation of the hyperlinked index, the entire folder shall be housed within one folder and then uploaded to Box as a single .zip file. Should the size of the .zip file make the upload to Box impossible, the Parties shall upload the organized folder to a designated sub-folder on to the Box filesharing platform, in a sub-folder and including a consolidated (non-hyperlinked) index.

- 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, or a public holiday in any of the United States, the United Kingdom, or the United Republic of Tanzania, the relevant date is the subsequent business day. A Party shall confirm, in its communication submitting its pleading, if the original filing date fell on a qualifying business day.
- 13.7. Extensions of time 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. In the event that an extension requested by a Party would affect the dates fixed for any hearing or meeting, the Tribunal shall grant the extension solely in exceptional circumstances and upon a reasoned application of the Party requesting it. The request for an extension shall be submitted as soon as practicable after a Party becomes aware of the circumstances which prevent it from complying with the deadline and, in any event, before the expiry of that 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 arbitration shall proceed in accordance with the Schedule set out in **Annex B**, except if the Tribunal, upon a showing of good cause by either Party, or by mutual agreement of the Parties, amends the Schedule.
- 14.3. Any written submission shall be submitted in accordance with ICSID Arbitration Rule 30 and the provisions set forth in this Procedural Order.
- 14.4. In the first exchange of submissions on a given matter (in principle Memorial and Counter-Memorial), 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.
- 14.5. In their second exchange of submissions (in principle Reply and Rejoinder) the Parties shall limit themselves to responding to factual allegations, legal arguments, and evidence put forward by the other Party in its preceding submission, subject to facts and documents resulting from the document production phase or new facts arising after the filing of the Party's last submission.
- 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.

15. Production of Documents

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

- 15.1. The Tribunal shall be guided but not bound by Articles 3 and 9 of the International Bar Association Rules on the Taking of Evidence in International Arbitration 2020 (“**IBA Rules**”).
- 15.2. Each Party may submit a Request to Produce Documents along the lines of Article 3 of the IBA Rules, subject to appropriate restraint, on or before the date mentioned in the relevant item of the Timetable (**Annex B**). A Request to Produce Documents shall identify documents, or specific categories of documents, in the requested Party’s possession, custody or control which are not in the requesting Party’s own possession, custody or control, and which are relevant and material to the claims and defences in this arbitration. Such a Request to Produce Documents shall not be copied to the Tribunal.
- 15.3. Each Party may object to one or more requests in the other Party’s Request to Produce Documents, on the basis of the categories of objections set forth in Article 9(2) of the IBA Rules, on or before the date mentioned in the relevant item of the Timetable. Such objections shall be submitted to the requesting Party only.
- 15.4. To the extent not objected to by the Parties, each Party shall produce the documents as requested by the other Party on or before the date mentioned in the relevant item of the Timetable.
- 15.5. For any document requests subject to an objection described above, the Parties may apply to the Tribunal for the production of such documents on or before the date mentioned in the relevant item of the Timetable. Any such application shall include the applying Party’s response to the relevant objections.
- 15.6. The Tribunal shall decide on the objections on or before the date mentioned in the Timetable.
- 15.7. The request, objection, reply to the objection, and decision shall be set forth in the form of a Document Production Schedule a template of which is annexed as **Annex C** to this Procedural Order No. 1.
- 15.8. If and to the extent that the Tribunal rejects the objection and orders production, each Party shall produce the documents to the other Party on or before the date mentioned in the Timetable.
- 15.9. For the avoidance of doubt, the following additional and clarifying principles shall apply to document requests:
 - (a) requests should observe the requirements of efficiency, and Parties should proceed only with necessary requests by exercising diligence and reasonableness to avoid turning their Redfern Schedules into voluminous and unhelpful submissions, which do not serve the nature of document requests;
 - (b) the Tribunal will not deal with issues of burden of proof and does not expect to receive requests relating to the proof of the other Party’s case;

- (c) requests should be limited to those which are *relevant* to the issues in dispute and *material* to the outcome of the claims made by either Party;
 - (d) requests should be *specific* and *particularized* by referring to a specific time frame/duration, events and/or persons/entities, and should avoid generic and overly broad wording and scope;
 - (e) requests should refer to the specific paragraph(s) in the relevant submissions to support the relevance and materiality of the requests made;
 - (f) when making requests and filing objections (if any) related to the work of the experts, the Parties should be guided by the necessity of ensuring that experts have access to the same set of documents and that they are working from the same data sets;
 - (g) as is the case with requests, objections to the requests made should be premised on reasonable grounds and guided by the IBA Rules on the Taking of Evidence, and subject to the overarching consideration of cooperation in voluntary production of documents that fulfill the criteria and conditions set out above;
 - (h) at all times, the Parties are encouraged to liaise and discuss the voluntary production of documents in order to limit the areas of disagreement in relation to the requests made; and
 - (i) requests that are insufficiently precise will not be reformulated by the Tribunal.
- 15.10. Documents produced pursuant to a Request to Produce Documents shall be exchanged *inter partes* and shall only form part of the record if and when they are submitted with the Parties' respective submissions, or as ordered by the Tribunal.
- 15.11. In addition, the Tribunal may order a Party to produce documents on its own initiative at any time. In that case, the documents shall be submitted to the other Party and to the Tribunal in accordance with §16 below and shall be considered to be on record.
- 15.12. If a Party fails to produce documents ordered by the Tribunal, the Tribunal may draw an inference that the non-produced document or documents is/are adverse to the position of that Party, in light of all circumstances and taking into account the reasons advanced by a Party to explain its inability to produce any given document.

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. Further documentary evidence relied upon by the Parties in rebuttal shall be submitted with the Reply and Rejoinder.
- 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 ICSID 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. Exhibits and legal authorities 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 exhibit or legal authority 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. An electronic copy of each demonstrative exhibit, other than PowerPoint slides, shall be distributed by the Party intending to use it via an electronic mail sent to the entire case email distribution for each Party, the Members of the Tribunals, the Tribunal Secretary, to

the court reporter and to the interpreters as necessary by a deadline to be decided at the Pre-Hearing Organizational Meeting.

- 16.10. In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the Parties shall upload such demonstrative to the case folder in the BOX filesharing 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' pleadings.
- 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 shall be signed and dated by the witness and include all the information contemplated in Article 4(5) of the IBA Rules.
- 17.4. Each expert report shall be signed and dated by all expert(s) who authored it and shall:
- 17.4.1. be accompanied by any documents or information upon which the report relies unless such documents or information have already been submitted as exhibits with the Parties' submissions, in which case reference to such exhibits shall be sufficient; and
- 17.4.2. be accompanied by a statement of independence and disclose any relationship with Members of the Tribunal or the Parties and such other information contemplated in Article 5(2) of the IBA Rules.
- 17.5. Drafts, working papers or any other documents (except the expert report submitted along with the pleadings) created by an expert for the purpose of providing expert evidence in the arbitration, and any communications between the expert and a Party or its counsel for that purpose, shall be privileged and shall not be subject to production in the arbitration.

18. Examination of Witnesses and Experts

Arbitration Rule 38

- 18.1. On the date indicated in the Timetable (**Annex B**), each Party shall submit to the opposing Party, the Tribunal and the Tribunal Secretary, a request to call at the hearing for examination and cross-examination any witness or expert presented by the other Party whose written testimony has been submitted with the pleadings. Shortly after the Parties' notifications, the Tribunal will indicate any witnesses or experts not called by the Parties whom it wishes to question.

- 18.2. A witness and expert called to testify shall in principle appear at the hearing in person. Examination by video conference may be permitted by the Tribunal in exceptional circumstances at the Tribunal's discretion. The Parties shall ensure that the witness or expert testifies under the same conditions as he or she would in a physical hearing room, i.e., without conferring with anyone else during the testimony and having access to the relevant direct and cross bundles (if any) from the start of his or her direct and/or cross-examination.
- 18.3. The Tribunal may disregard the testimony of a witness or expert called to testify at the hearing who fails to appear at the hearing without justified reasons.
- 18.4. If a Party waives cross-examination of a factual or expert witness, the witness' statement shall stand as the witness's direct examination, and the factual or expert witness need not be called by the Party that offered the witness, unless instructed otherwise by the Tribunal. Waiver of cross-examination of a factual or expert witness does not imply the witness' statement is conceded, and the Party waiving cross-examination may still challenge the witness' statement in its oral and written submissions.
- 18.5. Each Party shall be responsible for the practical arrangements, cost and availability of its own witnesses and experts. The Tribunal will decide upon the appropriate allocation of such costs in its Award.
- 18.6. Witnesses and experts shall be examined by each Party under the control of the Tribunal. The Tribunal may examine the witness or expert at any time during the oral procedure.
- 18.7. The witness or expert shall make a declaration before giving evidence in the terms contemplated by ICSID Arbitration Rule 38(6) (for fact witnesses) or ICSID Arbitration Rule 38(8) (for experts).
- 18.8. The direct evidence of a witness is given in the form of witness statements and expert reports. However, the Party presenting the witness may conduct a brief direct examination—of a length to be agreed at the pre-hearing conference—at the hearing for the purposes of asking introductory questions, including to confirm the accuracy and completeness of that witness' written testimony, to offer any background or clarifications that may be necessary to prevent a potentially avoidable misunderstanding of that witness' written testimony and to summarize briefly the information set out in the witness statement(s). The direct examination may not be used to introduce new evidence, save with respect to supervening facts or matters that have arisen subsequent to the witness' last written statement.
- 18.9. Experts may summarize their reports and findings, either through direct examination or in the form of a brief presentation of a length to be agreed at the pre-hearing conference. Such presentation shall be limited to the scope of the expert report(s), save with respect to supervening facts or matters subsequent to the expert's last report.
- 18.10. As a general rule, cross-examination shall be limited to matters within the scope of the respective witness' knowledge (or expertise, for expert witnesses), but shall not be constrained to matters contained in the witness' or experts' written testimony.

18.11. Re-direct examination shall, as a general rule, be limited to any issues arising out of the cross-examination. Both the scope of cross-examination and re-direct examination shall be subject to the Tribunal's control.

18.12. Prior to their examination, fact witnesses shall not:

18.12.1. be present in the hearing room during the hearing of oral testimony;

18.12.2. discuss the testimony of any other witness; or

18.12.3. read any transcript of any oral testimony given by other witnesses.

A protocol to address the potential sequestration of fact and/or expert witnesses, including the rules applicable to fact witnesses who are Party representatives, shall be determined by the Tribunal following consultation with the Parties at a later stage.

18.13. Experts shall be allowed to be present in the hearing room at any time.

18.14. Counsel may meet with witnesses, experts, potential witnesses and experts to establish the facts, prepare the written statements and oral examinations.

19. Pre-Hearing Organizational Meetings

Arbitration Rule 31

19.1. A pre-hearing organizational meeting shall be held on the date stipulated in the Timetable (**Annex B**) It shall comprise a teleconference or video conference 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, 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. ICSID Arbitration Rule 31 foresees the holding of Case Management Conferences 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). The Parties agree to modify the application of ICSID Arbitration Rule 31 so that the Case Management Conferences shall be held, if needed, at the Tribunal's discretion, taking into account the Parties' requests and the circumstances and stage of the proceedings as appropriate.

- 20.2. For the purposes of ICSID Arbitration Rule 31, the Tribunal is at liberty to put clarificatory questions to the Parties at any time during the proceedings. The Tribunal shall ensure that the Parties are afforded sufficient opportunity to make their observations concerning such questions.

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 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.
- 21.4. The hearing shall take place on the dates indicated in the Timetable (**Annex B**) and shall be a five (5) day hearing (with two (2) subsequent days held in reserve).
- 21.5. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 21.6. Allocation of time and other procedural issues related to the hearing will be discussed by the Parties and the Tribunal during the Pre-Hearing Organization 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 transcripts in the procedural language 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. After consultation with the Parties at the relevant hearing or session, the Tribunal shall determine the deadline for the Parties to agree on any corrections to the transcripts (“**Revised Transcripts**”). The agreed corrections may be entered by the 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 court reporter in the revised transcripts.

23. Post-Hearing Memorials and Statements of Costs

Convention Article 44; Arbitration Rules 51

- 23.1. In consultation with the Parties, the Tribunal will determine at the end of the hearing whether there shall be Post-Hearing Memorials. If so, the Tribunal will address the time limits for preparing, and the length, format, and content of the Post-Hearing Memorials. No new evidence may be produced together with the Post-Hearing Memorials, except with leave from the Tribunal.
- 23.2. The Tribunal will issue directions on the Parties' statements of costs at the end of the hearing.

24. Transparency Matters

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

- 24.1. Matters of transparency and confidentiality in these proceedings shall be governed by ICSID Arbitration Rules 62 to 66.
- 24.2. The Parties agree that each Party may introduce in ICSID Case No. ARB/25/43 any communications, pleadings, submissions or documentary evidence filed in, or transcripts from, this arbitration proceeding.

25. Data Privacy and Cybersecurity

- 25.1. 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").
- 25.2. 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.
- 25.3. 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.

26. Amicable Dispute Settlement

- 26.1. 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 ICSID Arbitration Rule 55(2). Any

agreement pursuant to ICSID Arbitration Rule 54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.

27. Disability Measures

- 27.1. 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 in oral hearings. In considering such requests, the Tribunal will take into account 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 the work related to an arbitration.

28. Artificial Intelligence

- 28.1. The Tribunal shall not use Artificial Intelligence (“AI”) in drafting the reasoning part of its rulings and awards.
- 28.2. The Party intending to use AI tools shall:
- (a) Ensure that its representatives and experts agree to comply, at all times, with any laws, ethical rules or professional standards applicable to the use of AI tools in the context of arbitration.
 - (b) Use reasonable efforts to independently verify the sources and accuracy of any output of any AI tool used in the course of the arbitration from a factual and legal standpoint and correct any inaccuracies before submitting the relevant document or other evidence in the proceedings and at all times during the proceedings in case such inaccuracies are found after submission of an affected document or evidence.
 - (c) Refrain from using any AI tool to produce output which may mislead the Tribunal and/or the other Parties, including but not limited to any fabrication or falsification of any evidence, obtainment of inaccurate output as a result of the use of prompts aimed at obtaining a desired outcome.
 - (d) Preserve confidentiality of any confidential information or data inputted the chosen AI tool, including by redacting or anonymizing inputted materials where required or appropriate.
- 28.3. The Tribunal shall have a right to investigate (including through the appointment of AI experts), inquire, seek information and clarifications, give directions and decide on the use of any AI tools. Where required by the Tribunal, the Parties agree to cooperate with the Tribunal to help evaluating whether any AI tool, the way it is used or the aim it is used for are allowed, including by helping reproduce and evaluate the outputs received by any of the Parties in using a specific AI tool by disclosing the prompts used for the specific input.

29. Other Matters

- 29.1. The Parties confirm that at this time, there is no agreement in relation to the coordination of ICSID Case No. ARB/25/42 and ICSID Case No. ARB/25/43.

On behalf of the Tribunal,

[signed]

Prof. Andrea Bjorklund
President of the Tribunal
Date: 19 June 2026

Annex A – Electronic File Naming Guidelines

Please follow these guidelines when naming electronic files and for the accompanying Consolidated Hyperlinked 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. SPA=Spanish; 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 Hyperlinked 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-SPA</i>
	<i>Reply on Annulment-FR</i>
	<i>Rejoinder on Quantum-ENG</i>
SUPPORTING DOCUMENTATION Exhibits	C-####–LANGUAGE
	R-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S FACTUAL EXHIBITS
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	RESPONDENT’S FACTUAL EXHIBITS
	<i>R-0001-FR</i>
	<i>R-0002-SPA</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-SPA</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-SPA</i>
	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]- ENG</i>
Expert Reports	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE
	<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 Hyperlinked 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)-SPA</i>
	<i>Request for Bifurcation-ENG</i>
	<i>Request for Provisional Measures-[Respondent]-SPA</i>
	<i>Request for Production of Documents-[Claimant]-SPA</i>
	<i>Request for Stay of Enforcement-FR</i>
	<i>Request for Discontinuance-[Claimant]-ENG</i>
	<i>Post-Hearing Brief-[Claimant]-SPA</i>
	<i>Costs Submissions-[Respondent]-ENG</i>
	<i>Observations to Request for [XX]-[Claimant]-SPA</i>

Annex B – Procedural Timetable

Scenario 1: The Respondent does not request bifurcation of any objection(s) to jurisdiction

Responsible Party	Stage	Interval (weeks between stages)	Date
Claimant	Memorial		Friday 30 October 2026
Respondent	Counter-memorial / memorial on counterclaims	39	Friday 30 July 2027
Parties	Request to Produce Documents (RTP)	9	Friday 1 October 2027
Parties	Objections and/or Responses to RTPs (OTP)	5	Friday 5 November 2027
Parties	Replies to OTPs and Applications to the Tribunal	3	Friday 26 November 2027
Parties	Production of documents not subject to objections	3	Friday 17 December 2027
Tribunal	Decisions on OTPs	4	Friday 14 January 2028
All Parties	Production of documents ordered by Tribunal	3	Friday 4 February 2028
Claimant	Reply / counter-memorial on counterclaims	6	Friday 17 March 2028
Respondent	Rejoinder / reply on counterclaims	22	Friday 18 August 2028
Claimant	Rejoinder on counterclaims	6	Friday 29 September 2028
Parties	Confirm witnesses / experts	4	Friday 27 October 2028
Tribunal	Indicate witnesses / experts	1	Friday 3 November 2028
All Parties	Pre-hearing meeting	9 weeks 3 days	Monday 8 January 2029
All Parties	Hearing	17	7 – 11 May 2029, with 12 and 13 May 2029 in reserve

Scenario 2: The Respondent requests bifurcation of any objection(s) to jurisdiction and bifurcation is denied

Responsible Party	Stage	Interval (weeks between stages)	Date
Claimant	Memorial		Friday 30 October 2026
Respondent	Request for bifurcation	(6 weeks and 3 Days (45 days as per ICSID arbitration Rules))	Monday 14 December 2026
Claimant	Response to bifurcation request	5 weeks	Monday 18 January 2027
Tribunal	Decision not to bifurcate	4	Wednesday 17 February 2027
Respondent	Counter-memorial / counterclaims	22	Monday 19 July 2027
Parties	Requests for Production of Documents (RTP)	9	Monday 20 September 2027
Parties	Responses / Objections to RTPs (OTP)	5	Monday 25 October 2027
Parties	Replies to OTPs and Applications to the Tribunal	5	Monday 29 November 2027
Parties	Production of documents not subject to objections	13	Monday 28 February 2028
Tribunal	Decision on OTPs	0	Monday 28 February 2028
Parties	Production of documents ordered by Tribunal	4 weeks from date of Decisions on OTPs	Monday 27 March 2028
Claimant	Reply / Counter-memorial on counterclaims	6	Monday 8 May 2028
Respondent	Rejoinder on the Merits / Reply on Counterclaims and Jurisdiction	22	Monday 9 October 2028
Claimant	Rejoinder on counterclaims	6	Monday 20 November 2028
Parties	Confirm witnesses / experts to examine	3	Monday 11 December 2028
Tribunal	Indicate witnesses / experts to be examined	1	Monday 18 December 2028
Tribunal	Pre-hearing meeting	18 weeks and 2 days	Wednesday 25 April 2029
All Parties	Hearing	10 weeks and 5 days	9-13 July 2029 (with 14-15 July in reserve)

Scenario 3: The Respondent requests bifurcation of any objection(s) to jurisdiction and bifurcation is granted

Responsible Party	Stage	Interval (weeks between stages)	Dates
Claimant	Memorial		Friday 30 October 2026
Respondent	Request for bifurcation	(6 weeks and 3 Days (45 days as per AR 44(1)(a)(i)))	Monday December 14, 2026
Claimant	Response to bifurcation request	5 weeks	Monday 18 January 2027
Tribunal	Decision granting bifurcation	4	Wednesday 17 February 2027
- Jurisdiction phase -			
Respondent	Memorial on Jurisdiction	13 weeks and 5 days	Monday 24 May 2027
Claimant	Counter-memorial on jurisdiction	14	Monday 30 August 2027
Respondent	Reply on jurisdiction	11	Monday 15 November 2027
Claimant	Rejoinder on jurisdiction	11	Monday 31 January 2028
Parties	Confirm witnesses / experts	4	Monday 28 February 2028
Tribunal	Indicate witnesses / experts	1	Monday 6 March 2028
Tribunal	Pre-hearing organisational meeting	6 weeks and 2 days	Wednesday 19 April 2028
All Parties	Jurisdiction hearing	6 weeks and 6 days	Tuesday 6 June 2028
Tribunal	Decision upholding jurisdiction	181 days (AR 44(3)(c) AR 9(3))	Monday 4 December 2028
- Merits phase -			
Respondent	Counter-memorial / Memorial on counterclaims	24 Weeks interval	Monday 21 May 2029
Parties	Requests for production of documents (RTPs)	11 Weeks interval	Monday 6 August 2029
Parties	Responses / Objections to RTPs (OTPs)	5 Weeks interval	Monday 10 September 2029
Parties	Replies to OTPs and Applications to the Tribunal	5 Weeks interval	Monday 15 October 2029
Parties	Production of documents not subject to objections	3 Weeks interval	Monday 5 November 2029

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Tribunal	Decision on OTPs	4 Weeks interval	Monday 3 December 2029
Parties	Production of documents ordered by Tribunal	5 Weeks interval (1 week was added because of the Christmas eve)	Monday 7 January 2030
Claimant	Reply / Counter-memorial on counterclaims	6 Weeks interval	Monday 18 February 2030
Respondent	Rejoinder / Reply on counterclaims	22 Weeks interval	Monday 22 July 2030
Claimant	Rejoinder on counterclaims	6 Weeks interval	Monday 2 September 2030
Parties	Confirm witnesses / experts	4 Weeks interval	Monday 30 September 2030
Tribunal	Indicate witnesses / experts	1 week interval	Monday 7 October 2030
Tribunal	Pre-hearing meeting	15 Weeks interval	Monday 20 January 2031
All Parties	Merits hearing	6 Weeks interval	3 – 7 March 2031

Annex C – Document Production Schedule

Document Request No.	
Identification of documents or category of documents requested	
Relevance and materiality (incl. references to submissions, Exhibits, WSs or ERs)	
Objections to production of requested documents	
Response to objections to document production requests	
Decision of the Tribunal	