

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER THE UNCITRAL
ARBITRATION RULES (1976)**

Alberta Petroleum Marketing Commission

Claimant

v.

United States of America

Respondent

(ICSID Case No. UNCT/23/4)

PROCEDURAL ORDER NO. 7
PROTOCOL FOR HEARING 8-10 SEPTEMBER 2025

Members of the Tribunal

Prof. Campbell A. McLachlan KC, President of the Tribunal
Mr. Stephen Drymer, Esq., Arbitrator
Prof. Sean D. Murphy, Arbitrator

Secretary of the Tribunal

Ms. Aïssatou Diop

Assistant to the Tribunal

Mr. Jack L.W. Wass

1 August 2025

1. Procedural Background

- 1.1 On 26 June 2025, the ICSID Secretariat, on behalf of the Tribunal, requested that the Parties submit a draft Procedural Order No. 7 to the Tribunal by 14 July 2025 for the hearing to take place 8-10 September 2025 (“**Hearing**”).
- 1.2 On 14 July 2025, the Parties submitted to the Tribunal a draft of Procedural Order No. 7 for its review and comment.
- 1.3 On 17 July 2025, the Parties gave notice to the Tribunal of the witnesses and experts that each Party intends to call for examination.
- 1.4 Pursuant to §15.1 of Procedural Order No. 1, a pre-hearing organizational meeting between the Parties and the Tribunal was held by videoconference on 18 July 2025 (the “**Pre-Hearing Conference**”), to discuss any outstanding procedural, administrative, and logistical matters in preparation for the Hearing. Participating were:

Arbitral Tribunal:

Prof. Campbell C.A. McLachlan KC, President of the Tribunal
Mr. Stephen L. Drymer, Arbitrator
Prof. Sean D. Murphy, Arbitrator

Assistant to the Tribunal:

Mr. Jack L.W. Wass

ICSID Secretariat:

Ms. Aïssatou Diop, Secretary of the Tribunal

On behalf of the Claimant:

Mr. Ian A. Laird	Crowell & Moring LLP
Ms. Ashley R. Riveira	Crowell & Moring LLP
Mr. John Laird	Crowell & Moring LLP
Mr. Eduardo Mathison	Crowell & Moring LLP
Ms. Tai Williams	Crowell & Moring LLP
Ms. Taylor Wilson-Whitaker	Crowell & Moring LLP
Ms. Staci Gellman	Crowell & Moring LLP
Dr. Todd Weiler	

On behalf of the Respondent:

Ms. Lisa J. Grosh	U.S. Dept. of State, Office of the Legal Adviser
Mr. John D. Daley	U.S. Dept. of State, Office of the Legal Adviser
Mr. David M. Bigge	U.S. Dept. of State, Office of the Legal Adviser
Ms. Caroline D. Kelly	U.S. Dept. of State, Office of the Legal Adviser
Ms. Mary T. Muino	U.S. Dept. of State, Office of the Legal Adviser
Ms. Eva Dantzler	U.S. Dept. of State, Office of the Legal Adviser
Ms. Anjail Al-Uqdah	U.S. Dept. of State, Office of the Legal Adviser
Ms. Isabel Gensler	U.S. Dept. of State, Office of the Legal Adviser

- 1.5 During the Pre-Hearing Conference, the Parties and the Tribunal discussed the draft Procedural Order No. 7 and the Parties' respective positions.
- 1.6 The Tribunal has considered the Parties' positions and, in the present Order, sets out the procedural rules that shall govern the conduct of the Hearing.
- 1.7 The directions issued in Procedural Order No. 1 govern this arbitration unless otherwise stated in this Protocol.

2. Date and Location of Hearing

- 2.1 The Hearing shall take place 8-10 September 2025 at the World Bank, Room C1-450, 1225 Connecticut Avenue, N.W. Washington, DC, 20036.
- 2.2 One breakout room has been reserved for each of the Parties and Tribunal/Tribunal Assistant, along with a small room that may be used for expert sequestration, if required.
- 2.3 The Hearing room, as well as the Parties' breakout rooms, shall be available for inspection from 11:00 and 13:00 on 5 September 2025. Should the Parties wish to conduct an inspection, they shall notify the ICSID Secretariat ("**Secretariat**") of their expected time of arrival and provide a list of attendees by **3 September 2025**.

3. Lists of Attendees/Attendance Sheets

- 3.1 An indicative list of the persons who shall be attending the Hearing on behalf of Claimant is as follows:
 - (a) Mr. Ian A. Laird, Crowell & Moring LLP
 - (b) Ms. Ashley R. Riveira, Crowell & Moring LLP
 - (c) Mr. John Laird, Crowell & Moring UK LLP
 - (d) Mr. Eduardo Mathison, Crowell & Moring LLP
 - (e) Ms. Tai Williams, Crowell & Moring LLP
 - (f) Ms. Taylor Wilson-Whitaker, Crowell & Moring LLP
 - (g) Ms. Staci Gellman, Crowell & Moring LLP
 - (h) Ms. Leticia Tientcheu, Crowell & Moring LLP
 - (i) Dr. Todd Weiler
 - (j) [REDACTED]
 - (k) [REDACTED]
 - (l) [REDACTED]

3.2 An indicative list of the persons who shall be attending the Hearing on behalf of the Respondent is as follows:

- (a) Ms. Lisa J. Grosh, U.S. Dept. of State, Office of the Legal Adviser
- (b) Mr. John D. Daley, U.S. Dept. of State, Office of the Legal Adviser
- (c) Mr. David M. Bigge, U.S. Dept. of State, Office of the Legal Adviser
- (d) Ms. Kristina E. Beard, U.S. Dept. of State, Office of the Legal Adviser
- (e) Mr. Matthew S. Hackell, U.S. Dept. of State, Office of the Legal Adviser
- (f) Mr. Nathaniel E. Jedrey, U.S. Dept. of State, Office of the Legal Adviser
- (g) Ms. Caroline D. Kelly, U.S. Dept. of State, Office of the Legal Adviser
- (h) Ms. Hannah J. Lobel, U.S. Dept. of State, Office of the Legal Adviser
- (i) Ms. Mary T. Muino, U.S. Dept. of State, Office of the Legal Adviser
- (j) Mr. Alvaro J. Peralta, U.S. Dept. of State, Office of the Legal Adviser
- (k) Ms. Jessica R. Simonoff, U.S. Dept. of State, Office of the Legal Adviser
- (l) Mr. Liam B. Smith, U.S. Dept. of State, Office of the Legal Adviser
- (m) [REDACTED]
- (n) [REDACTED]
- (o) [REDACTED]

3.3 An indicative list of the persons who shall be attending the Hearing on behalf of the Tribunal and Secretariat is as follows:

- (a) Prof. Campbell A. McLachlan KC, President of the Tribunal
- (b) Mr. Stephen Drymer, Arbitrator
- (c) Prof. Sean D. Murphy, Arbitrator
- (d) Mr. Jack L.W. Wass, Assistant to the Tribunal
- (e) Ms. Aïssatou Diop, ICSID Secretariat

3.4 Any changes to the above indicative lists must be provided to the Secretariat and the opposing Party by the later of 6 pm EST the previous day or within one hour of the end of the Hearing the previous day (if later than 6 pm EST). If an attendee is planning to attend remotely, it should be so noted on the daily indicative list.

4. Remote Attendance and Client Representative Attendance

- 4.1 Any counsel or Party representative who is identified pursuant to §3 above may attend the Hearing either in-person or remotely.
- 4.2 Pursuant to Article 14.4 of Procedural Order No. 1, the Tribunal may allow a witness or expert to appear and be examined by videoconference “in exceptional circumstances.” If either Party proposes that a witness or expert they have put forward be examined by videoconference, such a request shall be made no later than 15 August 2025, with an explanation of the exceptional circumstances that require such a procedure. The other Party may submit its observations on such a request by 20 August 2025 and the Tribunal shall determine whether to grant or deny the request by 27 August 2025. If the Tribunal grants the request, it shall provide, pursuant to Article 14.4 of Procedural Order No. 1, “appropriate directions” at that time.
- 4.3 The Secretariat shall circulate access details for the videoconference the evening prior to the start of the Hearing for those who have been identified as attending remotely. If necessary, either Party may request a connection test with ICSID in advance of the Hearing. Testing is not otherwise required.
- 4.4 All remote attendees shall join the videoconference at least 10 minutes in advance of the start of each Hearing day.
- 4.5 Entry into the videoconference shall be by use of a “waiting room” feature, which shall be managed by the Secretariat and its technical assistants. Once admitted, each remote attendee is invited to “rename” themselves in accordance with the following naming convention: [C/R] [First Name] [Surname]. Where multiple individuals are in the same location accessing the videoconference together as a group, the username should clearly indicate the group’s affiliation.
- 4.6 All remote attendees without an active role at any given moment shall mute their own audio and turn off their video. The Secretariat shall proactively mute the microphones of any attendees who may have forgotten to do so.
- 4.7 Attendees shall not record, take photos or take screenshots of any kind of any part of the Hearing.
- 4.8 If necessary and on request of one of the Parties, the videoconference may be closed to the Hearing room in order to protect confidential information.

5. Non-Disputing State Parties

- 5.1 In accordance with Procedural Order No. 2, §26, the non-disputing State Parties may attend the Hearing. Such attendance may be in-person or remote. Non-disputing State Party participants shall notify the Parties and Tribunal by no later than 15 August 2025, if they wish to apply to make an oral submission at the Hearing. In the event that such an application is made, the Tribunal shall seek the views of the Parties before ruling on it.
- 5.2 To facilitate access to the Hearing by representatives of the non-disputing State Parties, ICSID shall inform the identified representatives of the date, time, and location of the Hearing. All non-disputing State Party participants shall provide a list of participants no

later than 3 September 2025 and those participants shall be identified on the List of Participants.

6. Public Hearing access and protection of confidential information

6.1 The confidentiality provisions set out in Procedural Order No. 2 shall apply to the Hearing.

6.2 Hearing participants must comply with any applicable legal and ethical obligations with respect to confidentiality. All participants providing services, including the court reporter, technicians, and others, shall (i) keep confidential all documents and information coming to their knowledge as a result of their participation in the Hearing; (ii) not use, or authorize any other person to use, such documents and information other than for the purpose of performing their work at the Hearing; and (iii) dispose of all documents, if printed, as confidential material, and delete all electronic copies that might be stored on personal devices, when their Hearing-related work has been completed.

6.3 The Parties have agreed in Procedural Order No. 2, §5, that substantive hearings shall be broadcast to the public, via closed-circuit television broadcast to an off-site public viewing room to be organised by the Parties in consultation with the ICSID Secretariat.

7. Hearing Schedule

7.1 The Parties' representatives have conferred and agreed to the below model schedule for the conduct of the Hearing, subject to adjustment as the Hearing progresses.

Submission	Duration	Time (EST)
Hearing Day 1 – Monday, 8 September 2025 (9:00 am – 5:00 pm EST)		
Opening and housekeeping matters	0:15	9:00 am – 9:15 am
Respondent's Opening Submissions	1:30	9:15 am – 10:45 am
<i>Break</i>	0:15	10:45 am – 11:00 am
Respondent's Opening Submissions	1:30	11:00 am – 12:30 pm
<i>Lunch Break</i>	1:00	12:30 pm – 1:30 pm
Claimant's Opening Submissions	1:30	1:30 pm – 3:00 pm
<i>Break</i>	0:15	3:00 pm – 3:15 pm
Claimant's Opening Submissions	1:30	3:00 pm – 4:30 pm
Tribunal Questions	0:30	4:30 pm – 5:00 pm
Hearing Day 2 – Tuesday, 9 September 2025 (9:00 am – 5:00 pm EST)		
Housekeeping matters, if any	0:15	9:00 am – 9:15 am

Non-Disputing State Party Submissions (if requested and ordered)		
Expert Examination		
<i>Break</i>	0:15	10:30 am – 10:45 am
Expert Examination Continued		
<i>Lunch Break</i>	1:00	12:15 pm – 1:15 pm
Expert Examination Continued		
<i>Break</i>	0:15	2:45 pm – 3:00 pm
Expert Examination Continued		
Tribunal Questions	0:30	4:30 pm – 5:00 pm
Hearing Day 3 – Wednesday, 10 September 2025 (9:00 am – 5:00 pm EST)		
Housekeeping matters, if any	0:15	9:00 am – 9:15 am
Remaining Expert Examination		
<i>Break</i>	0:15	10:30 am – 10:45 am
Remaining Expert Examination		
<i>Lunch Break</i>	0:15	12:15 pm – 1:15 pm
Respondent’s Closing Argument		
<i>Break</i>	0:15	2:45 pm – 3:00 pm
Claimant’s Closing Argument		
Tribunal Questions and housekeeping	30	4:30 pm – 5:00 pm

8. Allocation of Time

- 8.1 The Hearing shall take place from 9:00 am to 5:00 pm, or as agreed on each day, with a 1-hour luncheon adjournment and two 15-minute breaks (one before and one after lunch), subject to the Tribunal’s further directions.
- 8.2 Pursuant to §16.4 of Procedural Order No. 1, the Hearing shall proceed on the principle that the Parties should have equal time to present their case. Accordingly, the Parties shall be treated with equality as to time, subject to the right of the Tribunal to make necessary adjustments to ensure a fair hearing.

- 8.3 The division of overall available time between the Parties at the Hearing shall be as follows:
- (a) The Claimant and the Respondent shall have equal time to present their case.
 - (b) Each Hearing Day consists of up to 6.5 hours or as agreed.
 - (c) The total amount of available time is up to 19.5 hours (3 Hearing days), with estimated times of up to:
 - (i) 8.5 hours available to the Claimant;
 - (ii) 8.5 hours available to the Respondent; and
 - (iii) the balance of time is available to the Tribunal and administrative matters.
 - (d) Time shall be kept by the Secretariat using the chess clock system. Pursuant to Procedural Order No. 1, §16.4, the Parties shall also keep time in order to confirm the accuracy of the timekeeping should any disputes arise.
 - (e) While the Parties shall make a good-faith effort to adhere, to the extent possible, to the schedule set out in §6 above, adjustments shall be made if the time used by any Party on a particular day exceeds or falls under the total hours allocated to that Party on that day, so that the Party is still subject to the agreed total hours allocated. The Parties agree that, should the proceedings progress at a different pace than the schedule set out in §6 above, the detailed sequence for the conduct of the Hearing shall inform the proceedings:
 - (i) Respondent's Opening Presentation
 - (ii) Claimant's Opening Presentation
 - (iii) [Non-Disputing State Party Submissions, if any]
 - (iv) Direct examination, Cross-examination, and Re-Direct of Expert Witness(es) on first subject (order to be determined)
 - (v) Direct examination, Cross-examination, and Re-Direct of Claimant's Expert Witness(es) on second subject (order to be determined)
 - (vi) Respondent's Closing Argument
 - (vii) Claimant's Closing Argument
 - (f) The Tribunal shall have the discretion to allocate any free time as they see fit and to adjust the Hearing schedule, including the sitting times on any day, as needed in order to complete the Hearing.
 - (g) Although the Parties are allocated equal time, the total time used by the Parties does not need to be equal so long as neither Party exceeds its allotted time.

- 8.4 The deduction of time from each Party's available time shall occur in accordance with the following regime:
- (a) Unless otherwise directed by the Tribunal, time shall be deducted from a Party's remaining time as a result of it:
 - (i) making oral submissions (including opening and closing statements);
 - (ii) examining an expert (irrespective of who proposed the expert, but subject to adjustment upon application in the event of insistent unresponsiveness and translation delays);
 - (iii) making an objection that ultimately proves unjustified (thus, an unsuccessful objection is generally to be charged against the Party who made it and a successful objection against the Party which resisted it);
 - (iv) arriving late;
 - (v) making a presentation (including a presentation by its expert).
 - (b) Unless otherwise directed by the Tribunal, time may be deducted from Tribunal/administrative time due to:
 - (i) interventions by the Tribunal;
 - (ii) Tribunal questions to an expert and the expert's response to the questions;
 - (iii) a procedural application;
 - (iv) caucuses between the Parties while the Tribunal is sitting; and
 - (v) time incurred through no fault of the Parties.

9. Record of Time

- 9.1 The Secretariat shall keep a daily record of time spent by each Party and shall advise of that record before the next Hearing day.
- 9.2 Any disagreement shall be dealt with outside sitting hours wherever possible and referred to the Tribunal only as a last resort.
- 9.3 The Tribunal shall have full discretion to resolve any disputes as to the allocation of time as it sees fit. The Parties agree that the Tribunal's determination shall be final and binding on the Parties, and that they shall abide by any such determination.

10. Demonstratives and Visual Aids

- 10.1 The Parties and experts may use demonstrative exhibits, including PowerPoint presentations, which shall be projected in the Hearing room. Demonstrative exhibits include any visual or graphic representation prepared by or on behalf of counsel or an

expert to clarify, explain, or illustrate testimony or evidence in the record, including maps, diagrams, models, charts, or PowerPoint slides/presentations.

- 10.2 Demonstratives shall be exchanged pursuant to Procedural Order No. 1, §12.8.
- 10.3 In consultations with ICSID, the Parties shall arrange for the equipment necessary to enable and view projection of the presentations.
- 10.4 The Parties shall provide to the Tribunal hard copies of the PowerPoint presentations used for the Parties' opening statements and expert direct examinations at the commencement of those presentations. Hard copies of any demonstratives shall also be furnished to the opposing Party at the same time.
- 10.5 Demonstratives shall be made available simultaneously to the remote participants via screen sharing, to be managed by the ICSID Secretariat.
- 10.6 After the conclusion of the Hearing day on which a demonstrative exhibit or PowerPoint presentation is used, the relevant Party shall upload such demonstrative exhibit or PowerPoint presentation to the case folder in the Box files sharing platform, designating each with the corresponding CD-____ or RD-____ number for demonstrative exhibits and with CP- or RP- number for PowerPoint presentations.

11. Examination of Experts

- 11.1 The examination of expert witnesses is governed by Procedural Order No. 1, §14.
- 11.2 The evidence at the Hearing shall be affirmed as follows: *"I solemnly declare upon my honor and conscience that my statement will be in accordance with my sincere belief."*
- 11.3 The Parties shall make their best efforts to start and finish the examination of an expert on the same day. If the examination is interrupted and must continue following a break or on the following Hearing day, the expert shall remain sequestered, with appropriate instructions from the Tribunal, until the examination is completed. Experts shall be available to testify on the day before and after their scheduled examination, in case the Hearing schedule should shift.
- 11.4 Experts shall not have any documents, notes, information, or materials of any kind available to them while they are giving evidence, other than an unannotated copy of their respective expert reports and unannotated copies of exhibits or legal authorities on which they intend to rely. Experts who are giving an introductory presentation may also have an unannotated hard copy of their PowerPoint presentation available. Hard copies of PowerPoint presentations may not contain speaking notes.
- 11.5 Experts who take notes during their examination may be required to share such notes with the Tribunal and cross-examining counsel.
- 11.6 Documents used during cross-examination and re-direct examination shall be projected electronically in the Hearing room.

12. Arrangements for Transcription

- 12.1 The record of the Hearing is governed by Procedural Order No. 1, §17.

- 12.2 In accordance with §17 of Procedural Order No. 1, the Secretariat shall arrange for transcription services to be provided. The Parties, the Tribunal, the Secretariat, and the Tribunal Assistant shall have access to live transcription throughout the Hearing. Transcripts of proceedings shall be made available on the same day following the conclusion of the Hearing day.
- 12.3 The Parties shall liaise and jointly propose any corrections to the transcript no later than 21 days after the final day of the Hearing. If the Parties do not agree on a proposed correction, the Tribunal shall rule on the proposal.
- 12.4 The Tribunal may make a correction to a transcript on its own initiative at any time after consulting the Parties.
- 13. List of Issues and Pre-Hearing Submissions**
- 13.1 The Parties shall defer submission of the items listed in Procedural Order No. 1, §15.3 (15.3.1 to 15.3.5), to the Merits Pre-Hearing Procedural Conference.

Dated: 1 August 2025

Place of Arbitration: Washington, D.C.

[signed]

Professor Campbell A. McLachlan KC
President of the Tribunal