

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Gerald International Limited

v.

Republic of Sierra Leone

(ICSID Case No. ARB/19/31)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Prof. Dr. August Reinisch, President of the Tribunal

Prof. Dr. Guido Santiago Tawil, Arbitrator

Ms. Olufunke Adekoya, SAN, Arbitrator

Secretary of the Tribunal

Dr. Jonathan Chevry

29 May 2020

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Introduction

The first session of the Tribunal was held on 20 May 2020, at 9:00 a.m., by telephone conference. The session was adjourned at 11:16 a.m.

An audio 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 Claimant and the Respondent (together the “**Parties**”).

Participating in the conference were:

Members of the Tribunal

Prof. Dr. August Reinisch, President of the Tribunal
Prof. Dr. Guido Santiago Tawil, Arbitrator
Ms. Olufunke Adekoya, SAN, Arbitrator

ICSID Secretariat:

Dr. Jonathan Chevry, Secretary of the Tribunal

Attending on behalf of the Claimant:

Mr. John Savage QC, King & Spalding
Mr. Kenneth R. Fleuriet, King & Spalding
Mr. Giorgio Mandelli, King & Spalding
Ms. Ema Vidak Gojković, King & Spalding

Mr. Alex Strong, Gerald International Limited

Attending on behalf of the Respondent:

Ms. Mélida Hodgson, Jenner & Block
Mr. Charlie Lightfoot, Jenner & Block
Ms. Patricia Cruz Trabanino, Jenner & Block
Mr. Sebastian Canon Urrutia, Jenner & Block

The Tribunal and the Parties considered the following:

- The Draft Agenda circulated by the Tribunal Secretary on 21 April 2020 as amended by the Parties on 8 May 2020.
- The Draft Procedural Order circulated by the Tribunal Secretary on 21 April 2020; and

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- The Parties' comments on the Draft Agenda and the Draft Procedural Order received on 8 May 2020, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

Following the session, the Tribunal now issues the present Order:

Order

Pursuant to ICSID Arbitration Rules 19 and 20, this first 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

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of 10 April 2006.

2. Constitution of the Tribunal and Tribunal Members' Declarations
Arbitration Rule 6

- 2.1. The Tribunal was constituted on 6 April 2020 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 6(2). Copies of these declarations were distributed to the Parties by the ICSID Secretariat on 6 April 2020.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case.

3. Fees and Expenses of Tribunal Members

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

- 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 of ICSID Arbitrators in force at the time the fees and expenses are incurred.
- 3.2. Under the current Schedule of Fees, each Tribunal Member receives:

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- 3.2.1. US\$3,000 for each day of meetings or each eight hours of other work performed in connection with the proceedings or *pro rata*; and
 - 3.2.2. subsistence allowances, reimbursement of travel, and other expenses pursuant to ICSID Administrative and Financial Regulation 14.
 - 3.3. Each Tribunal Member shall submit his/her claims for fees and expenses to the ICSID Secretariat on a quarterly basis.
 - 3.4. Non-refundable expenses incurred in connection with a hearing as a result of a postponement or cancellation of the hearing shall be reimbursed.
4. Presence and Quorum
Arbitration Rules 14(2) and 20(1)(a)
 - 4.1. The presence of all Members of the Tribunal constitutes a quorum for its sittings, including by any appropriate means of communication, such as video or audio conferencing.
5. Rulings of the Tribunal
Convention Article 48(1); Arbitration Rules 16, 19 and 20
 - 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
 - 5.2. ICSID Arbitration Rule 16(2) applies to decisions taken by correspondence except that where 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.
 - 5.3. The Tribunal will draft all rulings, including the award, within a reasonable time period. If a ruling other than the Award has not been issued within two months after the final submission on a particular matter, the Tribunal will provide the Parties with status updates every four weeks. If the Award has not been issued within six months after the final submission after the Hearing, the Tribunal will provide the Parties with status updates every two months.
 - 5.4. The President is authorized to issue Procedural Orders on behalf of the Tribunal.
 - 5.5. The Tribunal's rulings on procedural matters may be communicated to the Parties by the Tribunal Secretary in the form of a letter or email.

6. Power to Fix Time Limits

Arbitration Rule 26(1)

- 6.1. The President may fix and extend time limits for the completion of the various steps in the proceeding.
- 6.2. In exercising this power, the President shall consult with the other Members of the Tribunal. If the matter is urgent, the President may fix or extend time limits without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.
- 6.3. The Parties may agree on short extensions of time between themselves, on the basis of mutual courtesy, as long as they do not materially affect the timetable ordered in **Annex B** and the Tribunal is informed in advance.

7. Secretary of the Tribunal

Administrative and Financial Regulation 25

- 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:

Dr. Jonathan Chevry
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
USA
Tel.: +1 (202) 473-2812
Fax: +1 (202) 522-2615
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Paralegal email: mrinne@worldbank.org

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

Dr. Jonathan Chevry
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036

USA
Tel.: +1 (202) 458-1534

8. Representation of the Parties
Arbitration Rule 18

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. Stephen Palmer
Mr. Alex Strong
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9. Apportionment of Costs and Advance Payments to ICSID

Convention Article 61(2); Administrative and Financial Regulation 14; Arbitration Rule 28

- 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. By letter of 8 April 2020, ICSID requested that each party pay US\$175,000 to cover the initial costs of the proceeding. ICSID received the Claimant's payment on 8 May 2020.
- 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

Convention Articles 62 and 63; Administrative and Financial Regulation 26; Arbitration Rule 13(3)

- 10.1. Washington, D.C. shall be the place of the proceeding.
- 10.2. The Tribunal may hold hearings at any other place that it considers appropriate, or through any method of communication it considers appropriate, if the Parties so agree.

10.3. The Tribunal may deliberate at any place, or through any method of communication, it considers convenient.

11. Procedural Language, Translation and Interpretation

Administrative and Financial Regulation 30(3) and (4); Arbitration Rules 20(1)(b) and 22

11.1. English is the procedural language of the arbitration.

11.2. Documents filed in any other language must be accompanied by a translation into English.

11.3. If the document is lengthy and relevant only in part, it is sufficient to translate only relevant parts, provided that the Tribunal may require a fuller or a complete translation at the request of any party or on its own initiative.

11.4. Translations need not be certified unless there is a dispute as to the content of a translation provided and the party disputing the translation specifically requests a certified version.

11.5. Documents exchanged between the Parties in a language other than English under §15 below (Production of Documents) need not be translated.

11.6. The testimony of a witness called for examination during the hearing who prefers to give evidence other than in the English language shall be interpreted simultaneously.

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 costs of the interpreter(s) 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

Administrative and Financial Regulation 24

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. In urgent circumstances or if instructed by the Tribunal, the Parties

may communicate directly with the Tribunal with copy to the Tribunal Secretary and the opposing party.

- 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 direct communications between the Parties when such communications are not intended to be transmitted to the Tribunal.

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

Administrative and Financial Regulation 30; Arbitration Rules 20(1)(d) and 23

- 13.1. By the relevant filing date, the Parties shall 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 the supporting documentation attached to the pleading.¹
- 13.2. Within two business days following the submission by email, the Parties shall upload the pleading, with all the supporting documentation and updated index to the file sharing platform created by ICSID for purposes of this case.
- 13.3. Within three business days following the upload to the file sharing platform, the Parties shall courier to each Member of the Tribunal at the addresses indicated at §13.5 below one USB or hard drive with a full copy of the entire submission, including the pleading, the witness statements, expert reports, exhibits, legal authorities and a cumulative index hyperlinked to all supporting documentation submitted by the relevant party to date.
- 13.4. While COVID-19 restrictive measures are in place in a country where the Tribunal, either Party or their counsel are located (§8), the requirement of physical delivery under §13.3 shall not apply, and the Parties shall file their pleadings in accordance with §13.1-13.3 via email and the file sharing platform only.
- 13.5. The addresses of the Tribunal Members are as follows:

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

Prof. August Reinisch

[REDACTED]
Tel.: [REDACTED]
Email: [REDACTED]

Ms. Olufunke Adekoya

[REDACTED]
Tel.: [REDACTED]
Email: [REDACTED]

Prof. Guido Santiago Tawil

[REDACTED]
Tel.: [REDACTED]
Email: [REDACTED]

- 13.6. The Parties' submissions shall be submitted in electronic format only, unless a hard copy is specifically requested by the Tribunal.
- 13.7. Electronic versions of pleadings, witness statements, expert reports, and legal authorities shall be text searchable (*i.e.*, OCR PDF or Word). Excel spreadsheets and other calculations shall be provided in native electronic format rather than PDF.
- 13.8. All pleadings shall be accompanied by a cumulative index hyperlinked to 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. (Please follow the naming conventions contained in **Annex A**).
- 13.9. 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 courier to the ICSID Secretariat and each Member of the Tribunal a USB or hard drive containing 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.
- 13.10. The official date of receipt of a pleading or communication shall be the day on which the electronic version is sent to the Tribunal Secretary by email.
- 13.11. A filing shall be deemed timely if sent by a party by midnight, Washington, D.C. time, on the relevant date.

14. Number and Sequence of Pleadings

Arbitration Rules 20(1)(c), 20(1)(e), 29 and 31

- 14.1. The proceeding shall consist of a written phase followed by an oral phase.
- 14.2. A full procedural timetable, which includes written submissions, production of documents (per §15 below), and hearing(s) is at **Annex B**.
- 14.3. Where a time period ends for a relevant party on a Saturday, a Sunday, or a public holiday observed at the place where the Claimant or the Respondent, or its counsel, is based, as indicated at §8 above, the relevant date shall be adjusted to the next business day at the relevant place.

15. Production of Documents

Convention Article 43(a); Arbitration Rules 24 and 33-36

- 15.1. Each Party may request the production of documents from the other Party in accordance with the Procedural Timetable and the provisions of this Order.
- 15.2. The conduct of document production may be guided by the International Bar Association Rules on the Taking of Evidence in International Arbitration (2010) (the “**IBA Rules**”), Articles 3 and 9.
- 15.3. Requests for the production of documents shall be in writing and set forth reasons for the request in respect of each document or class of documents requested. Unless the requested Party objects to production, it shall produce the requested documents within the applicable time limit.
- 15.4. If the requested Party objects to production, the following procedure shall apply:
 - 15.4.1. the requested Party shall submit a response stating which documents or class of documents it objects to producing. The response shall state the reasons for each objection and shall indicate the documents, if any, that the Party would be prepared to produce instead of those requested;
 - 15.4.2. if a party objects to production on the basis of privilege, it shall submit to the requesting Party a privilege log specifying, for each document or category of documents, the type of privilege claimed for the document, including a brief explanation;
 - 15.4.3. the requesting Party shall respond to the other Party’s objection, indicating, with reasons, whether it disputes the objection;

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- 15.4.4. the Parties shall seek agreement on production requests to the greatest extent possible;
- 15.4.5. to the extent that agreement cannot be reached between the requesting and the requested Party, the Parties shall submit all outstanding requests to the Tribunal for decision;
- 15.4.6. document production requests submitted to the Tribunal for decision, together with objections and responses, must be in tabular form pursuant to the model in **Annex C** (modified Redfern schedule). The Parties shall use the model format, in Word and PDF format, throughout their exchange of requests, objections, and responses; and
- 15.4.7. the Tribunal shall rule on any such application, and may for this purpose be guided by Articles 3 and 9 of the IBA Rules. Documents ordered by the Tribunal to be disclosed shall be produced within the time limit set forth in the Procedural Timetable.
- 15.5. The Tribunal may also, on its own motion, request the production of documents.
- 15.6. The Parties shall not copy the Tribunal or the Tribunal Secretary on their correspondence or exchanges of documents in the course of the document production phase, except as necessary to enable the Tribunal to make a determination on an objection.
- 15.7. All documents produced by a Party to the other Party shall be provided electronically in the original language. Each document shall be produced in a separate PDF file and each file shall be numbered consecutively. Each party shall also provide an index of the documents being produced. So far as reasonably practicable, documents shall be produced in the form of searchable PDF files.
- 15.8. Documents produced by the Parties in response to document production requests shall only form part of the evidentiary record if a Party subsequently submits them as exhibits to its written submissions or upon authorization of the Tribunal after the exchange of submissions.
- 15.9. The failure of a Party to produce documents as ordered by the Tribunal may lead the Tribunal to draw the negative inferences it deems appropriate in relation to the documents not produced.

16. Submission of Documents

Convention Article 44; Administrative and Financial Regulation 30; Arbitration Rule 24

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. To the extent the Parties make other submissions that rely on documentary evidence (such as in an application for security for costs or an application for provisional measures), those submissions too shall be accompanied by the documentary evidence relied upon by the Parties, including exhibits and legal authorities.

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 exceptional circumstances exist based on a reasoned written request 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 a document.

16.4. The Tribunal may call upon the Parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 34(2).

16.5. The documents shall be submitted in the following form:

16.5.1. Exhibits shall be numbered consecutively throughout these proceedings.

16.5.2. 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.

16.5.3. Each Exhibit shall have a divider with the Exhibit identification number on the tab.

16.5.4. A party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.

16.5.5. Exhibits shall also be submitted in PDF format and start with the number “C-0001” and “R-0001,” respectively.

16.5.6. Electronic filings 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 attaching them to their pleadings. Documents need not be resubmitted with witness statements even if referred to in such statements.

16.8. Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence or new calculations. Each party shall number its demonstrative exhibits consecutively, and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The party submitting such exhibits shall provide them in electronic and hard copy to the other party, the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) at the hearing at a time to be decided at the pre-hearing organizational meeting.

17. Witness Statements and Expert Reports

Convention Article 43(a); Arbitration Rule 24

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 exceptional 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 Rules 35 and 36

18.1. Each witness and expert shall be available for examination at the hearing, subject to the provisions of this Procedural Order. Witnesses and experts shall testify in person

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at the hearing if called for examination, unless the Tribunal concludes that exceptional circumstances justify otherwise.

- 18.2. On the date indicated in **Annex B**, each Party shall notify the other Party, with a copy to the Tribunal, which witnesses and experts presented by the opposing party it wishes to call for examination at the hearing. If a Party does not call a witness or expert presented by the opposing party for examination, that Party shall not be deemed to have accepted the content of that witness's or expert's evidence, but that witness's or expert's evidence shall form part of the record and its probative value will be assessed by the Tribunal.
- 18.3. Shortly (and in any event no more than two weeks) after the Parties' notifications, the Tribunal will indicate the witnesses or experts not called by the Parties whom it wishes to question, if any.
- 18.4. Should a Party wish to present any of its own witnesses or experts for examination at the hearing who have not been called by the Tribunal or the other Party, it shall request leave of the Tribunal to do so.
- 18.5. The procedure for examining witnesses and experts at the hearing shall be the following:
 - 18.5.1. Before giving evidence, witnesses shall make the declaration in ICSID Arbitration Rule 35(2), and experts shall make the declaration in ICSID Arbitration Rule 35(3).
 - 18.5.2. The witness statement of each witness and expert shall stand in lieu of the examination by the party producing the witness and expert ("direct examination"), provided, however, that (i) the witness or expert shall be entitled to make corrections to his or her statement at the outset of the examination, (ii) any witness giving oral testimony may first be examined in direct examination for no more than 10 minutes to introduce the witness, to confirm the accuracy and completeness of the witness's written statement(s), and to update their witness statement on events which took place after the Party's last submission before the oral hearing; and (iii) any experts may give a summary of their report either directly, using demonstrative slides and/or through direct examination, for no longer than 30 minutes, unless the Parties agree or the Tribunal orders otherwise. Any requests to modify these time limits for a particular witness or expert shall be raised with the other Party and the Tribunal no later than at the pre-hearing organizational meeting.
 - 18.5.3. Following direct examination, the witness or expert shall then be subject to examination by the other Party ("**cross-examination**"), and subsequently by the Party producing the witness and expert ("**redirect examination**").

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18.5.4. The redirect examination shall be limited to matters raised in cross-examination.

18.5.5. Unless the Parties and the Tribunal agree otherwise, witnesses shall not be allowed in the hearing room until all witnesses have testified and shall not be permitted to read the transcript before testifying. Experts shall be allowed in the hearing room at any time. Party representatives, even if they appear as witnesses in the arbitration, shall be allowed in the hearing room at all times. Nonetheless, the Parties shall examine such Party representatives as soon as practicable in the proceedings.

18.5 If a witness or expert fails to appear at the hearing without justification, the Tribunal may order the witness statement of such witness or report of such expert to be struck from the record, or may attach such weight as it thinks appropriate in the circumstances to the witness statement or expert report. Witnesses or experts may be examined by videoconference if the circumstances warrant with the Tribunal's permission.

18.6 The witnesses and experts shall be examined in the order agreed by the Parties. If not agreed by the Parties, the Tribunal shall determine the order in which the witnesses and experts will be called after consultation with the Parties during the pre-hearing organizational meeting in §19 below.

18.7 Parties' counsel shall be authorized to meet and discuss with witnesses and potential witnesses to establish the facts and prepare their testimony.

19 Pre-Hearing Organizational Meetings

Arbitration Rule 13

19.1 A pre-hearing organizational meeting shall be held at a date at a date set out in **Annex B** by telephone between the Tribunal, or its President, and the Parties in order to resolve any outstanding procedural, administrative, and logistical matters in preparation for the hearing.

20 Hearings

Arbitration Rules 20(1)(e) and 32

20.1 The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.

20.2 The hearing shall be held at a place to be determined in accordance with §10 above.

20.3 The hearing shall take place at a date set out in **Annex B**.

- 20.4 The Members of the Tribunal shall endeavor to reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 20.5 To facilitate references to the main documents on which the Parties intend to rely at the hearing, the Parties shall use their best efforts to agree on and prepare a joint physical hearing binder containing a set of the essential factual/legal documents on which the Parties are most likely to rely, together with a table of contents for such binder. In the event that the Parties are unable to agree on a joint hearing binder, each Party shall produce the documents that they consider appropriate and include them in a joint binder. The documents in the binder referenced in this paragraph shall be identified by using the exhibit or legal authority numbers recorded over the course of the arbitration. Such binder shall be produced in A5 format, spiral-bound.
- 20.6 The principle of equality of time for each Party to present its case shall apply as a guide. The amount of time available to each side for use at the Hearing will be set by the Tribunal after consultation with the Parties during the pre-hearing organizational meeting.
- 20.7 Consistent with Arbitration Rule 32(2), hearings shall be closed to the public unless the Parties agree otherwise.

21 Records of Hearings and Sessions

Arbitration Rules 13 and 20(1)(g)

- 21.1 Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the Parties and the Tribunal Members.
- 21.2 Verbatim transcript(s) in the procedural language(s) 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 be available in real-time using LiveNote or similar software and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.
- 21.3 The Parties shall agree on any corrections to the transcripts within 15 business 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 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.

22 Post-Hearing Memorials and Statements of Costs

Convention Article 44; Arbitration Rule 28(2)

22.1 At the conclusion of any hearing, the Tribunal shall decide whether the Parties will file Post-Hearing Briefs as well as when and in what form the Parties shall file submissions and evidence regarding claims for costs.

22.2 The Tribunal may limit any Post-Hearing Briefs in scope and/or in length.

23 Publication

Convention Article 48(5), Administrative and Financial Regulation 22, Arbitration Rule 48(4)

23.1 The Parties consent to ICSID publication of the award and any order or decision issued in the present proceeding.

23.2 Each Party may make its submissions in this proceeding available to the public provided that before such disclosure the other Party shall first be given a reasonable opportunity of no less than 15 business days to review and redact such submission, in order to request removal of any sensitive information on the grounds of privilege, commercial confidentiality or special political or institutional sensitivity. Where the Parties are unable to agree on the extent of any proposed redaction, the Tribunal will rule on such requests.

[Signed]

Prof. Dr. August Reinisch
President of the Tribunal
Date: 29 May 2020

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
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	Legal Opinion–Name of Expert–Name of Submission–LANGUAGE
	<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/EXPERT INITIALS –###

Witness Statements, Expert Reports, Legal Opinions	<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 CALENDAR

Date	Step	Parties / Tribunal
2 September 2020 (15 weeks from First Session)	Memorial	Claimant
20 January 2021 (20 weeks)	Counter-Memorial	Respondent
17 February 2021 (4 weeks)	Document Requests	Parties (simultaneously)
17 March 2021 (4 weeks)	Production of non-contested documents and/or objections to Requests	Parties (simultaneously)
31 March 2021 (2 weeks)	Replies to objections	Parties (simultaneously)
21 April 2021 (3 weeks)	Decision of the Tribunal on the Document requests	Tribunal
19 May 2021 (4 weeks)	Production of documents ordered by Tribunal	Parties (simultaneously)
11 August 2021 (12 weeks)	Reply	Claimant
3 November 2021 (12 weeks)	Rejoinder	Respondent
15 December 2021 (6 weeks)	List of witnesses and experts to be cross-examined during the hearing	Parties (simultaneously)
12 January 2022 (4 weeks)	Pre-hearing organizational teleconference	Tribunal and Parties
14 to 23 February 2022	Hearing (8-10 days TBC)	Tribunal and Parties

Date	Step	Parties / Tribunal
TBC	Post-Hearing Briefs	Parties (simultaneously)
TBC	Cost submissions	Parties (simultaneously)

ANNEX C

REDFERN SCHEDULE

REQUEST NO. [X]²

Documents or Category of Documents Requested (requesting Party)		
Relevance and materiality, incl. references to submission (requesting Party)	References to Submissions, Exhibits, Witness Statements or Expert Reports	
	Comments	
Reasoned objections to document production request (objecting Party)		
Response to objections to document production request (requesting Party)		
Decision (Tribunal)		

² The formatting of the table (include its portrait/landscape orientation) may be changed as appropriate without affecting the content in any way.