

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Latam Hydro LLC and CH Mamacocha S.R.L.

v.

Republic of Peru

(ICSID Case No. ARB/19/28)

PROCEDURAL ORDER No. 6

on the Organization of the Hearing

Members of the Tribunal

Prof. Albert Jan van den Berg, President of the Tribunal
Prof. Dr. Guido Santiago Tawil, Arbitrator
Prof. Raúl E. Vinuesa, Arbitrator

Secretary of the Tribunal

Ms. Ana Constanza Conover Blancas

Assistant to the Tribunal

Ms. Emily Hay

2 February 2022

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I. PROCEDURAL BACKGROUND

1. Pursuant to sections 19.1 and 20.2 of Procedural Order No. 2, the Tribunal and the Parties held, on 2 December 2021, a procedural status conference on the format of the hearing on jurisdiction and merits (the “**Hearing**”). During the conference, the Tribunal and the Parties discussed whether the circumstances at that time made it difficult, burdensome or dangerous to have an in-person hearing and whether a virtual hearing may be a preferable option considering the circumstances. No decision was reached during the conference as to the format of the Hearing. Rather, it was agreed to hold a second procedural status conference in January 2022 to revisit this issue.
2. On 14 January 2022, the Tribunal and the Parties held a second procedural status conference on the format of the Hearing. During the conference, the Tribunal decided that the Hearing will be held remotely in a fully virtual format, unless circumstances change such that having an in-person hearing would not expose participants to any risk of COVID-19 contagion.
3. Pursuant to Section 19.2 of Procedural Order No. 2, a pre-hearing organizational meeting between the Parties and the Tribunal was held by videoconference on 21 January 2022 (the “**Pre-Hearing Conference**”), to discuss any outstanding procedural, administrative, and logistical matters in preparation for the Hearing. Participating were:

Tribunal:

Prof. Albert Jan van den Berg, President of the Tribunal
Prof. Dr. Guido Santiago Tawil, Arbitrator
Prof. Raúl E. Vinuesa, Arbitrator
Ms. Emily Hay, Tribunal Assistant

ICSID Secretariat:

Ana Conover, Secretary of the Tribunal
Federico Salon-Kajganich, Paralegal

On behalf of the Claimants:

Mr. Kenneth B. Reisenfeld, BakerHostetler
Mr. Marco Molina, BakerHostetler
Mr. James J. East, Jr, BakerHostetler
Mr. Michael R. Jacobson, Latam Hydro LLC
Mr. Jeffrey M. Lepon, President of Latam Hydro LLC
Ms. Licy Benzaquén Gonzalo, legal representative of CH Mamacocha S.R.L.

On behalf of the Respondent:

Mr. Patricio Grané Labat, Arnold & Porter
Mr. Alvaro Nistal, Arnold & Porter
Ms. Claudia Taveras Alam, Arnold & Porter

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Ms. Vanessa Del Carmen Rivas Plata Saldarriaga, Presidenta de la Comisión Especial
Mr. Enrique Jesús Cabrera Gómez, Abogado de la Secretaría Técnica de la Comisión Especial

4. During the Pre-Hearing Conference, the Parties and the Tribunal discussed the draft agenda and the draft Procedural Order circulated to the Parties on 7 January 2022, and the Parties' joint statement of 19 January 2022 advising the Tribunal of the agreements reached on the various items, as well as their respective positions where no agreement was reached.
5. A recording of the Pre-Hearing Conference was made and deposited in the archives of ICSID, and it was made available to the Members of the Tribunal and the Parties on 21 January 2022.
6. The Tribunal has considered the Parties' positions and, in the present Order, sets out the procedural rules that the Parties have agreed upon and/or the Tribunal has determined will govern the conduct of the Hearing.

II. ORGANIZATION OF THE HEARING

A. DATE AND FORMAT

7. The Hearing will take place virtually through the video conference platform called Zoom, hosted by FTI Consulting, from Monday 7 to Friday 18 March 2022. The details to join the Hearing will be shared by the ICSID Secretariat in advance of the Hearing. Consistent with the decision rendered by the Tribunal during the 14 January 2022 conference, the Hearing may be held in person if circumstances change such that having an in-person hearing would not expose participants to any risk of COVID-19 contagion.

B. ORDER OF PROCEEDINGS AND SCHEDULE

8. In order to accommodate the different time zones of all Hearing participants, the Hearing will start each day at 9:00 am (EST). It is expected to conclude by 3:30 pm (EST) at the latest, except on the first day of the hearing which will conclude after the Opening Statements of both Parties.
9. In principle, each hearing day will proceed in slots as follows: 1.5 hours of Hearing time, 15 minute break, 1.5 hours of Hearing time, 45 minute break, 1.5 hours of Hearing time, 15 minute break, 0.75 hours of Hearing time.
10. The Hearing will start with opening remarks and housekeeping matters from the Tribunal, followed by Claimants' opening statements, Respondent's opening statements, the examination of witnesses and experts, Claimants' closing statements, Respondent's closing statements, and closing remarks from the Tribunal at the end of the Hearing.

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11. The Parties may present one round each of opening statements, of no more than 2.5 hours duration per side, prior to the examination of witnesses and experts at the Hearing. There will be no reply or rejoinder to opening statements. The entirety of Day 1 of the Hearing shall be reserved for opening statements and, accordingly, witness/expert examinations shall start no earlier than Day 2.
12. The Parties may present one round of closing statements on the final day of the Hearing. The day preceding the final day will be reserved for the preparation of closing statements and there will be no Hearing on that day.
13. Pursuant to Section 25.1 of Procedural Order No. 2 and Article 10.20(2) of the United States-Peru Trade Promotion Agreement (the “TPA” of the “Treaty”), the United States of America may make oral submissions to the Tribunal as non-disputing party (“NDP”) regarding the interpretation of the TPA. On 1 February 2022, the United States of America confirmed that it would attend the hearing as NDP and that it would exercise its right to make oral submissions at the hearing.
14. The Parties agree that the United States shall be granted 30 minutes for oral submissions, scheduled at the end of the examination of experts.
15. The order of proceedings and structure of the Hearing, including the number and length of breaks, shall be indicated in the agenda using the format incorporated as **Annex A** below. Following the notification of witnesses to be examined at the Hearing, an Excel timetable for the Hearing shall be circulated, in which the Parties shall insert their estimated time for cross-examination of each witness and expert. The estimates provided in the Excel may be used as a basis for the agenda. The Parties will make a good-faith effort to adhere to the schedule. Nevertheless, the specific time allocations fixed on the schedule are to be used for indicative purposes only, and do not strictly bind either Party. The Tribunal will set a date by which the agenda should be finalized following preparation of the Excel.
16. The Tribunal reserves discretion to adjust the Hearing schedule as needed in light of the stage of examination of a witness, to accomplish the prescribed agenda and to accommodate any technical disruptions. The Tribunal may temporarily or permanently suspend the Hearing if it deems the functioning of the videoconference system to be inadequate or likely to prejudice the due process rights of any of the Parties or the integrity of the proceeding. The Parties are asked to bear in mind that transcripts will be available, mitigating any prejudice arising from the failure of any given participant to be able to follow the entire Hearing on the videoconference platform.

C. TIME ALLOCATION

17. A total number of 6.5 hours are reserved for each Hearing day. After excluding time reserved for breaks (1 hour and 15 minutes), there will be a total of 5 hours and 15 minutes of working time to be allocated. Accordingly, after excluding Tribunal time (1 hour per day), each Party

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shall have a total time allocation for the Hearing of no more than 19 hours and 8 minutes, inclusive of opening and closing statements.

18. The Parties understand that they shall be responsible for marshalling their time appropriately, and should use maximum best efforts to limit their time to fall within the equal time allocation. Should a Party run out of its allocated time for the examination of witnesses and experts, the Tribunal shall address this issue taking into account paragraph 20.c of this Procedural Order.
19. Each Party shall be free to spend its allocated time in the manner it sees fit, so long as the total amount of time allotted to that Party, the order of presentations and the order of witnesses and experts set out in this order are maintained, and subject to the following:
 - (a) *Opening Statements*. Each Party shall be allowed a maximum of 2 hours and 30 minutes for its opening statement.
 - (b) *Closing Statements*. Each Party shall be allowed a maximum of 2 hours for its closing statement.
20. In calculating time used during the Hearing, the Tribunal incorporates the following presumptions:
 - a. Time spent by a Party on direct and re-direct examination, as well as expert presentations, shall count against the Party bringing the witness or expert. Time spent by a Party on oral argument and the cross examination of the other party's witnesses or experts, is counted against that Party's time.
 - b. Time spent on Tribunal's questions and answers thereto, on the U.S. non-disputing party submission, or in addressing any logistical or housekeeping matters, will not be subtracted from the Parties' allotted time. The Parties should prepare on the basis that one hour each day will be consumed by Tribunal questions, procedural matters, technical interruptions, or other contingencies.
 - c. The Parties are expected to seek to use the Hearing days efficiently and to avoid unnecessary slippage. To this end, as a general rule, each witness/expert shall be available for examination half a day before and after the time at which his/her examination is scheduled. In the event of excess slippage, the Tribunal may revisit the length of one or more sitting days, or in unusual circumstances the time allocations of the Parties, bearing in mind principles of predictability, equal treatment and a fair opportunity for the Parties to be heard.
 - d. The Secretary of the Tribunal will keep a chess clock account of time used and advise the Parties at the end of each Hearing day of the length of time used.

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D. WITNESS AND EXPERT EXAMINATION

21. The provisions of Procedural Order No. 2, Section 18 concerning the examination of witnesses and experts (reproduced below) apply, except for Section 18.10 which does not apply in a virtual format.
 - 18.1. Any person may present evidence as a witness, including a party or a party's officer, employee, or other representative.
 - 18.2. For each witness, a written, signed, and dated witness statement shall be submitted to the Arbitral Tribunal.
 - 18.3. Each witness statement shall state the witness's name, date of birth, and involvement in the case.
 - 18.4. Witness statements shall be submitted in either procedural language.
 - 18.5. . . .[E]ach party will submit its witness statements together with its written submission. The witness statements shall be numbered independently from other documents and properly identified (including the language of the statement). If a party submits more than one witness statement by the same witness, the subsequent witness statement shall be identified as "Second Statement," "Third Statement," and so on. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, identify relevant documents, or prepare the witness statements and the examinations.
 - 18.6. Each party shall be responsible for summoning its own witnesses to the hearing, except when the other party has waived cross-examination of a witness and the Tribunal does not direct his or her appearance. If a witness or expert who was presented by a party has not been called by the other party or by the Tribunal for examination at the hearing, the presenting party may not call such witness or expert to testify at the hearing except in exceptional circumstances.
 - 18.7. Each party shall notify the other party of the witnesses or experts it intends to cross-examine by the date to be established by the Tribunal. The Tribunal shall then identify the remaining witnesses or experts (if any) that it wishes to call for examination.
 - 18.8. The facts contained in the written statement of a witness or expert whose cross-examination has been waived by the other party, or not called by the Tribunal, shall not be deemed to have been accepted or established by the sole fact that no cross-examination has been requested. The Tribunal will assess the weight of the written statement or expert report taking into account the entire record and all the relevant circumstances.

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- 18.9. Each party shall be responsible for the practical arrangements, cost, and availability of any witness it offers. The Tribunal will decide upon the appropriate allocation of any related costs in the final Award.
- 18.10. The Tribunal may allow a witness to appear and be examined by videoconference, provided that there exist valid and exceptional reasons that prevents the witness from appearing in person. In such an event, the Tribunal will issue appropriate directions for the witness's examination by videoconference.
- 18.11. As a general rule and subject to other arrangements during the pre-hearing telephone conference. . . , fact witnesses shall be examined prior to expert witnesses, with the Claimant's fact (and expert) witnesses being examined prior to the Respondent's fact (and expert) witnesses. The order in which the witnesses and experts shall be heard shall be discussed at the pre-hearing telephone conference.
- 18.12. At the hearing, the examination of each witness shall proceed as follows:
- 18.12.1. The witness shall make the declaration provided in Rule 35(2) of the Arbitration Rules.
- 18.12.2. Witnesses giving oral testimony may first be examined in direct examination for no longer than 15 minutes, subject to a reasoned application for further time which may be granted by the Tribunal. Direct examination of witnesses shall be conducted only if and as necessary to introduce the witness, confirm the accuracy of and completeness of the witness's written statement(s), offer any corrections or clarifications that may be necessary to prevent a misunderstanding of that witness's written direct testimony, to highlight briefly the key points of his or her witness statement, and to address any relevant development that occurred after the witness signed the witness statement. Direct examination of experts shall either follow the same format as for witnesses, or the expert may provide a brief presentation of the key points of his or her report of no longer than 30 minutes, except for experts on quantum who may take up to 45 minutes.
- 18.12.3. Cross-examination shall not go beyond the subject matter of the witness statements and matters affecting the witness's credibility. Upon request and only for a substantial reason, the Tribunal in its discretion may allow limited inquiry into additional matters.
- 18.12.4. The party who has presented the witness may then re-examine the witness with respect to any matters or issues arising out of the cross-examination ("redirect examination").

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- 18.12.5. The Tribunal may examine the witness at any time, either before, during, or after examination by one of the parties.
- 18.12.6. Subject to a different agreement by the parties or decision of the Tribunal, a fact witness other than a party representative shall not prior to his or her examination be present in the hearing room during oral testimony and arguments, read the transcript of oral testimony or argument, or be informed of its contents. Party representatives who are also fact witnesses may be present during opening submissions, but not during the testimony of fact witnesses testifying before him or her. Such party representatives should testify first, to the extent possible.
- 18.13. The Tribunal shall, at all times, have complete control over the procedure for the examination of witnesses. In particular, but without limiting the foregoing, the Tribunal may in its discretion:
- 18.13.1. Limit or refuse the right of a party to examine a witness when it appears that a question has been addressed by other evidence or is irrelevant; or
- 18.13.2. Direct that a witness be recalled for further examination at any time.
- 18.14. Expert reports shall be accompanied by any documents or information upon which they rely, 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. . . .
- 18.15. The rules set forth above with respect to the examination of witnesses shall apply *mutatis mutandis* to the examination of party-appointed experts, except that a direct examination may last for 30 minutes or for a quantum expert, for 45 minutes. Instead of conducting a direct examination, the party presenting an expert may request him or her to summarize his or her methodology and conclusions subject to these same time limits.
22. In the event that the Tribunal asks questions of a witness or expert, the Parties may ask follow-up questions with respect to any matters or issues arising out of the Tribunal's questions to the witness.
23. Experts who have presented joint reports will be examined simultaneously, i.e., (i) Mr. Santiago Dellepiane and Mr. Andrea Cardani; and (ii) Mr. Matthew Shopp and Mr. Kiran Sequeira. For the cross-examination of these experts, the questions will be directed to the lead expert in the group as designated by the Claimants/Respondent that previously selected the lead expert. That expert will be responsible for determining which expert among the two should respond to the question. Only one expert can respond to each question.

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Each testifying expert should log into the virtual platform separately and refrain from interacting with the other testifying experts during the examination, unless invited to do so by the questioning counsel or Tribunal member.

24. Subject to the order by subject matter set out in paragraph 25 below, the Party offering the witness shall choose the order of its witnesses.
25. In modification of paragraph 18.11 of Procedural Order No. 2, the Parties' experts shall be heard in the following sequence: (i) Claimants' legal experts (Peruvian administrative law and civil law); (ii) Respondent's legal experts (Peruvian administrative law and civil law); (iii) Claimants' quantum experts; (iv) Respondent's quantum experts.
26. In accordance with paragraph 18.12.6 of Procedural Order No. 2, Claimants' witness Mr. Jacobson has been designated as a party representative and will be the first to give evidence. None of Respondent's witnesses are designated as a party representative.
27. Expert witnesses may be present in the Hearing prior to their examination, including during oral submissions and testimony of other fact and expert witnesses.
28. The witness or expert shall have a hard and/or electronic copy of their witness statement or expert report before them during their examination, including all exhibits thereto. The Party that offered the witness or expert is responsible for providing the electronic and/or hard copy of his or her witness statement or expert report, including all exhibits thereto. Further, the Party that offered each expert witness shall provide such expert copies of the expert reports of his/her counterpart. Fact witnesses shall not have notes or other material before them during their examination that is not in the record.
29. Subject to confidentiality provisions, witnesses and experts shall have access to the real-time live transcripts and the full electronic record (online) during their examination.
30. Any communications by or with the witness or expert during their examination are prohibited.
31. Each witness and expert shall be admonished with respect to giving evidence remotely and shall be asked to display their surroundings using their camera. They shall further give the following affirmations at the start of the examination:
 - a. That he or she will not receive or provide communications of any sort during the course of his or her examination.
 - b. For witnesses subject to sequestration, that they have not attended, watched a recording, or read the transcripts of the Hearing prior to their examination.

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32. The witness or expert shall not use a “virtual background” or in any way prevent or limit the recording of the remote venue from which he or she is testifying, including by using filters that blur or distort the background of the room.
33. The Tribunal shall have the authority at any time during the examination of a witness to request the witness to reorient their camera, whether to provide a better angle, lighting, or to verify the surroundings or any materials available to the witness.

E. DOCUMENTS FOR USE AT THE HEARING

i. Electronic Hearing Bundle

34. Pursuant and in addition to Section 20.5 of Procedural Order No. 2, there shall be (i) an Electronic Hearing Bundle (PC and Mac compatible), to be prepared by the Parties to facilitate references to the main documents on which the Parties intend to rely at the Hearing; and (ii) a full hyperlinked index (PC and Mac compatible), containing the entirety of the record. Neither bundle shall contain any document not previously filed.
35. The Electronic Hearing Bundle referred to in paragraph 34(i) above shall contain only a set of essential factual/legal documents on which the Parties are most likely to rely, with a consolidated hyperlinked index for such bundle. Each Party shall select the documents it wishes to include in the Electronic Hearing Bundle, exercising due restraint, which documents shall be compiled into one Bundle. The hyperlinked index to the Electronic Hearing Bundle shall be ordered chronologically, also including a column with original exhibit numbers. Prior to preparation of the Bundle, the Parties are invited to submit the draft index to the Tribunal for its approval or any comments.
36. The Electronic Hearing Bundle and full hyperlinked index shall identify with **RED** material that has been designated as “protected information”, in accordance with Article 10.21(2) of the TPA and Section 20.7 of Procedural Order No. 2.
37. The Electronic Hearing Bundle and the full hyperlinked index shall be uploaded by the Parties to a designated sub-folder in the BOX filesharing platform no later than 14 days prior to the Hearing, i.e., **Monday 21 February 2022**. To the extent that any updates are necessary, these may be provided by 7 days prior to the hearing, i.e., Monday 28 February 2022. To ensure proper operation of the hyperlinked index, the entire Electronic Hearing Bundle and full hyperlinked index shall each be housed within one folder and then uploaded to BOX as two single zip files. Should the size of the zip files make the upload to BOX impossible, the Parties shall upload the organized Electronic Hearing Bundle to a designated sub-folder on to the BOX filesharing platform and include a consolidated (non-hyperlinked) index.
38. Prior to the Hearing, the Members of the Tribunal, the Secretary of the Tribunal, the Assistant and the Parties shall download the Electronic Hearing Bundle from BOX into their own devices to have access to it offline during the Hearing. FTI Consulting, the court reporters

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and interpreters will also be provided with a copy of the Electronic Hearing Bundle via the ICSID Secretariat.

39. A USB device (PC and Mac compatible) with a copy of the Electronic Hearing Bundle and full hyperlinked index shall be sent to the Members of the Tribunal and the Secretary of the Tribunal no later than 14 days prior to Hearing, i.e., **Monday 21 February 2022**.

ii. Demonstrative Exhibits

40. Demonstrative exhibits, as well as a Power Point or other slide presentations shall be used in accordance with Section 16.8 of Procedural Order No. 2 (reproduced below) with certain adjustments indicated in paragraph 41 *infra*:

16.8. Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence nor new calculations. Each party shall number its demonstrative exhibits consecutively, and indicate on each demonstrative exhibit the document(s) on the record (e.g., exhibit, legal authority, expert report, etc.) 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 reporters and interpreters at the hearing at a time to be decided at the pre-hearing organizational meeting.

41. To account for the virtual nature of the Hearing, Section 16.8 of Procedural Order No. 2 above is amended such that: **(i)** a hard copy submission of demonstratives is not required; and **(ii)** an electronic copy of each demonstrative shall be distributed by the Party intending to use it via email sent to the entire case email distribution for each Party, the Members of the Tribunal, the Secretary of the Tribunal, the Tribunal Assistant, the interpreters and court reporters, no later than one hour *prior* to its use, in order to facilitate offline access to the demonstrative by the Hearing participants. This will enable participants to print the demonstrative if desired. Demonstrative exhibits shall be submitted in PDF editable format.
42. In addition, the Parties shall endeavor to inform each other reasonably in advance of the Hearing of the anticipated language in which any demonstratives and PowerPoint slides shall be submitted.
43. Promptly after the conclusion of the Hearing day in which the corresponding demonstrative exhibit is used, the Parties shall upload such demonstrative exhibit to the case folder in the BOX filesharing platform, designating each with the corresponding number: “CD-__” for Claimants’ demonstrative exhibits, and “RD-__” for Respondent’s demonstrative exhibits.

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iii. Electronic Presentation of Evidence

44. Hearing participants are advised to have the Electronic Hearing Bundle and any demonstrative exhibit previously distributed in accordance with paragraphs 40 and 41 above downloaded on their own devices and available for access offline.
45. Witnesses and experts shall have access to the full hyperlinked index during their examination.
46. Any Hearing participant has the technical ability to display a document to all Hearing participants using Zoom's "Share Screen" function. The participant displaying the document (or a designee) will be the only one with the ability to scroll through the document being displayed.
47. Documents that do not form part of the record may not be displayed at the Hearing.

F. AUDIO/VIDEO RECORDING

48. The provisions of Procedural Order No. 2, Section 21.1 concerning audio recording (reproduced below) apply.

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.

49. The audio and video recordings of the Hearing shall be made available to the Parties and the Members of the Tribunal by the ICSID Secretariat at the conclusion of the Hearing. Hearing participants shall not otherwise record, via audio, video or screenshot the Hearing or any part of it.

G. TRANSCRIPTION

50. The provisions of Procedural Order No. 2, Sections 11.8, 21.2 and 21.3 concerning transcription (reproduced below) apply with the adjustments indicated in paragraphs 51 and 52 below.

11.8. The Hearing shall be conducted in Spanish and English with simultaneous interpretation into the other procedural language. Transcripts shall be taken in both languages.

[...]

21.2. Verbatim transcripts in the procedural languages shall be made of any hearing and session other than sessions on procedural issues. Unless otherwise agreed by the parties or ordered by the Tribunal, the verbatim transcripts shall be available in real-time using LiveNote or similar

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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 30 calendar days of the later of the dates of the receipt of the sound recordings and 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.

51. Real-time court reporting in English and Spanish shall be made available to the Hearing participants via an online link connection to be provided by the English and the Spanish court reporters. Hearing participants shall connect to the transcript by opening this link in a browser window separate from the Zoom browser window. The details (link, password) and instructions to connect to the streamed transcripts shall be provided by the ICSID Secretariat to the Hearing participants before the start of the Hearing day.
52. With reference to paragraph 21.3 of Procedural Order No. 2, the transcript correction shall be limited to corrections of the original language transcript, i.e., the language in which the speaker spoke and not the transcript of interpretation. In the event a Party would like to draw alleged interpretation errors or disputes to the attention of the Tribunal, it may seek leave to do so after consulting with the other Party in respect of such interpretation issues.
53. Pursuant to Article 10.21(d) of the Treaty, the transcripts of the hearing shall be publicly available, subject to the redaction of protected information as set out in Annex C hereto.

H. INTERPRETATION

54. ICSID will make the required arrangements for simultaneous interpretation into English and Spanish and communicate them to the Parties and Tribunal in due course.
55. Each participant should indicate the language it expects to use at the Hearing in **Annex B** of this Order. Once a language selection is made, it is highly recommended that the participant only use that language and avoid switching interpretation channels.
56. Participants should speak slowly, one person at a time, and should pause briefly when handing the floor to another participant.
57. The main speakers for each Party should, insofar as possible, circulate any speaking notes to the interpreters prior to the start of each intervention. These notes should be emailed directly to the interpreters (see **Annex B** with their email addresses) and are to be treated as confidential information.

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I. POST-HEARING SUBMISSIONS AND STATEMENTS OF COSTS

58. The provisions of Procedural Order No. 2, Sections 22.1 and 22.2 (reproduced below) apply:

22.1. In consultation with the parties, the Tribunal will determine at the end of the hearing whether there shall be post-hearing submissions. If so, the Tribunal will address the filing date, length, format, and content of the post-hearing submissions.

22.2. The Tribunal will issue directions on the parties' statements of costs at the end of the hearing.

J. TRANSPARENCY

59. The Tribunal may hold portions of the Hearing *in camera* to the extent necessary to ensure the safeguard of protected information (see Annex C for protocol for protected information).

60. The recordings of the Hearing will be posted for viewing in the ICSID website, in the "floor" language, i.e., using the original language of the speaker.

61. Any information designated by one or both of the Parties as being protected will be excluded from the public recordings, as further addressed in the Protocol attached hereto as **Annex C**.

62. The availability of the Hearing recordings will be announced publicly via the ICSID website in English and Spanish.

K. VIRTUAL HEARING ARRANGEMENTS

63. The following procedures shall be followed in order to ensure the good conduct of the virtual hearing:

i. Testing

64. A Pre-Hearing Test Run Videoconference shall be held on **Thursday, 3 March 2022 at 10.00am EST** to verify the proper functioning of the videoconference system. All participants shall strive to replicate the conditions under which they will participate in the Hearing:

(a) To the extent possible, at least one participant per device or connection to be used at the Hearing should attend the pre-Hearing videoconference;

(b) Should testing all connections require witnesses to participate personally in the pre-Hearing videoconference, the Tribunal initially will limit discussions to introductions and technical matters, with any procedural matters to be discussed subsequently after all witnesses have been excused;

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- (c) To the extent possible, each participant should join the pre-Hearing videoconference with the same device(s) and internet connection and from the same physical location that they intend to use for the Hearing;
 - (d) The pre-Hearing test run videoconference shall include a test of each of the functions of the video conference platform that is intended to be used during the Hearing (e.g., muting and unmuting, presentation of evidence, breakout rooms, access to documentary record, transcript, interpretation);
65. In addition to the Test Run Videoconference, the Parties are invited to undertake at least one further technical test with the Secretariat or FTI Consulting in advance of the Hearing

ii. Participants

66. Each Party shall provide its List of Participants (“**Hearing List of Participants**”) for the Hearing no later than **21 days prior to the Hearing, i.e., Monday, 14 February 2022**, using the format provided in **Annex B**. Each Party shall designate the participants that will have an active speaking role (“**Active Participants**”) and those who will in principle be passive attendees (“**Passive Participants**”).
67. All Hearing participants shall clearly denote their names and affiliation when connecting to Zoom. Any name appearing in Zoom shall also be listed on the Hearing List of Participants (See **Annex B**). Should there be a discrepancy at any point during the Hearing, the Secretary of the Tribunal will alert the Tribunal, and the Tribunal will promptly address the matter. A list of the Hearing Participants can be viewed in Zoom’s “Participants” tab. The Zoom moderator will also have an Active User Participants List which must match the Final List of Participants.
68. Participants shall join the videoconference 15 minutes in advance of the start of each day to facilitate the identification and to address any technical contingencies.

iii. Connectivity

69. To improve operation of the Zoom platform, the Parties are advised to keep the number of video connections to a minimum and to Active Participants only. Passive Participants should preferably join the meeting through their computer but connecting only their audio (*i.e.* turning off their video).
70. All Hearing participants shall use the “mute microphone” function when not speaking to reduce background noise and to avoid interference with the audio recording.
71. If available, participants are encouraged to use a wired Ethernet connection instead of Wi-Fi. Participants are also strongly encouraged to keep available a smartphone or tablet, having a 4G data connection and mobile hotspot functionality, as a backup internet connection at all times during the Hearing, fully tested in advance.

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iv. Equipment and Set Up

72. For optimum sound quality, especially for the audio recording and the transcription, the main speakers and witnesses should use either **(i)** a headset equipped with a microphone and connected through the USB or “mic” jack of the computer or laptop that they use for the Zoom videoconference; or **(ii)** an external microphone. Internal computer or laptop microphones do not provide as good a sound quality as external microphones, which poses difficulties not just for the Tribunal but for the interpreters and court reporters as well. If such a headset is not available, Active Participants are asked to speak close to the microphone of the computer or laptop from which they are connected to the Zoom session.
73. While not indispensable, Hearing participants are advised to have at least two screens, and preferably three (it can be one device with multiple screens or a combination of devices including tablets) to facilitate simultaneous viewing of: **(i)** the Zoom video connection; **(ii)** the online real time transcript; and **(iii)** offline documents.
74. Hearing participants joining via video shall ensure that their image is clearly visible on the screen (e.g., they should avoid sitting with a window or source of light behind them because this darkens their image on screen).

v. Break-Out Rooms

75. ICSID will arrange for Zoom break-out rooms for each Party, a joint counsel’s break-out room, and a break-out room for the Tribunal, which shall be separate from the Zoom virtual Hearing Room. Each party shall make its own arrangements for use of any other separate channel of communication to handle internal communications.

On behalf of the Tribunal,

[Signed]

Prof. Albert Jan van den Berg
President of the Tribunal
Date: 2 February 2022

Procedural Order No. 6 – Annex A

ANNEX A

Latam Hydro LLC and CH Mamacocha S.R.L.

v.

Republic of Peru

(ICSID Case No. ARB/19/28)

AGENDA

Hearing on Jurisdiction and Merits

7-18 March 2022

Day 1: Monday, 7 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM	[X:XX] AM	[X:XX] PM	[X:XX] PM	<i>* Claimants to provide the Respondent, the Tribunal Members, the Tribunal Secretary, the court reporters and interpreters with any demonstrative exhibits.</i>	
[9:00] AM	[11:00] AM	[2:00] PM	[3:00] PM	Housekeeping and any other procedural matters	[] mins. max.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Claimants' Opening Statements	Max. of [] hrs. [and [] mins.] (with a [] min. break half way through the Claimants' Opening)
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Claimants' Opening Statements (cont.)	
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]

Procedural Order No. 6 – Annex B

[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	<i>* Respondent to provide the Claimants, the Tribunal Members, the Tribunal Secretary, the court reporters and interpreters with any demonstrative exhibits.</i>	
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Respondents' Opening Statements	Max. of [] hrs. [and [] mins.] (with a [] min. break half way through the Respondent's Opening)
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Respondents' Opening Statements (cont.)	
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Next step for Hearing Day 1, if any]	[[] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing Day	

Day 2: Tuesday, 8 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing Day	

Procedural Order No. 6 – Annex B

Day 3: Wednesday, 9 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing Day	

Day 4: Thursday, 10 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.

Procedural Order No. 6 – Annex B

[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing Day	

Day 5: Friday, 11 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Closing remarks	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing	

Day 6: Monday, 14 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]

Procedural Order No. 6 – Annex B

[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Closing remarks	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing	

Day 7: Tuesday, 15 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Closing remarks	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing	

Procedural Order No. 6 – Annex B

Day 8: Wednesday, 16 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Closing remarks	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing	

Day 9: Thursday, 17 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.

Procedural Order No. 6 – Annex B

[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Closing remarks	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing	

Day 10: Friday, 18 March 2022

TIME				PROCEDURAL STEP	ALLOCATED TIME
[EST/PET]	[ART/UYT]	[GMT]	[CET]		
Washington, DC / New York / Lima	Buenos Aires / Punta del Este	London	Brussels		
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Lunch Break	[] hr[s]. [and [] mins.]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[Step]	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Break	[] mins.
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	Closing remarks	[Allocated time]
[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	[X:XX] AM/PM	End of Hearing	

Procedural Order No. 6 – Annex B

ANNEX B

Latam Hydro LLC and CH Mamacocha S.R.L.

v.

Republic of Peru

(ICSID Case No. ARB/19/28)

LIST OF PARTICIPANTS

Hearing on Jurisdiction and Merits

7-18 March 2022

Name	Role/ Affiliation	Time zone¹	Passive Participant/ Active speaker	Email address
TRIBUNAL				
Prof. Albert Jan van den Berg	President of the Tribunal	CET	Active speaker	ajvandenbergh@hvdb.com
Prof. Dr. Guido Santiago Tawil	Arbitrator	UYT	Active speaker	arb-gtawil@arb-chambers.com
Prof. Raúl E. Vinuesa	Arbitrator	ART	Active speaker	raul.vinuesa43@gmail.com
Ms. Emily Hay	Assistant to the Tribunal	CST	Passive Participant	emily.hay@hvdb.com
ICSID SECRETARIAT				
Ana Conover	Secretary of the Tribunal	EST	Active speaker	aconover@worldbank.org
Federico Salon-Kajganich	Paralegal	EST	Passive Participant	fsalonkajganich@worldbank.org
CLAIMANTS				
Counsel				
[Name]	[Firm]	[]	[Fill out]	[Fill out]

¹ [Time Zone converter](#)

Procedural Order No. 6 – Annex B

Party representatives				
[Name]	[Role/Affiliation]	[]	[Fill out]	[Fill out]

RESPONDENT

Counsel				
[Name]	[Affiliation]	[]	[Fill out]	[Fill out]

Party representatives				
[Name]	[Role/Affiliation]	[]	[Fill out]	[Fill out]

COURT REPORTERS

[Name]	Court reporter (English)	[Email address]
[Name]	Court reporter (Spanish)	[Email address]

INTERPRETERS

[Name]	Interpreter	[Email address]
[Name]	Interpreter	[Email address]
[Name]	Interpreter	[Email address]

FTI CONSULTING

[Name]	Technician	[Email address]
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NON-DISPUTING PARTY

[Name]	[Affiliation]	[Email address]
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Procedural Order No. 6 – Annex C

ANNEX C

Latam Hydro LLC and CH Mamacocha S.R.L.

v.

Republic of Peru

(ICSID Case No. ARB/19/28)

Hearing on Jurisdiction and Merits
7-18 March 2022

PROTOCOL FOR THE SAFEGUARD OF “PROTECTED INFORMATION”

A. OBJECTIVES

1. This protocol is established to ensure:
 - a. Appropriate logistical arrangements for the Hearing, in accordance with the transparency regime established by Article 10.21 of the Treaty.
 - b. The protection of “protected information” (as defined in Article 10.28 of the Treaty).
 - c. An efficient, smooth and minimally disrupted Hearing.

B. GENERAL RULES

2. As agreed by the Parties, the Hearing will be recorded. A copy of the recording will be posted on the ICSID website within 60 days after the conclusion of the Hearing.
3. The disclosure of ‘protected information’ shall be prevented, when necessary, through the moderation of the transcript and recording of the Hearing. The term ‘moderation’ means that the transcript of the Hearing will be edited by the Parties to exclude protected information, within 45 calendar days after the conclusion of the Hearing. Once the Parties have submitted their proposed redactions of protected information from the transcript of the Hearing and the Tribunal has decided upon any disagreement between the Parties concerning such redactions (should there be any such disagreement), the recording shall be edited to exclude any protected information in accordance with the revised transcripts.
4. The published version of the transcript and of the recording of the Hearing shall exclude protected information.

Procedural Order No. 6 – Annex B

5. Any measure (beyond redactions to the transcript and to the recording of the Hearing) designed to safeguard “protected information” shall be the subject of a separate procedural request to be submitted by the interested Party. Without derogating from or modifying Section 18.12.6 of Procedural Order No. 2, given that there is no agreement by the Parties or decision by the Tribunal requiring that any participants in the Hearing be excluded from the Hearing room, any concerns regarding the disclosure of protected information can and should be addressed through redactions of the transcript and the recording of the Hearing, without having to adopt any measures that would disrupt the conduct of the Hearing.