

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Freeport-McMoRan Inc.

v.

Republic of Peru

(ICSID Case No. ARB/20/8)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Dr. Inka Hanefeld, President of the Tribunal

Prof. Dr. Guido Santiago Tawil, Arbitrator

Mr. Bernardo M. Cremades, Arbitrator

Assistant to the Tribunal

Ms. Charlotte Matthews

Secretary of the Tribunal

Ms. Marisa Planells-Valero

June 17, 2021

Contents and Agenda for the First Session

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Introduction

The first session of the Tribunal was held on May 11, 2021, at 10:00 a.m. EDT, by videoconference. The session was adjourned at 11:58 a.m. (EDT).

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 Parties.

Participating in the conference were:

Members of the Tribunal:

Dr. Inka Hanefeld, President of the Tribunal
Prof. Dr. Guido Santiago Tawil, Arbitrator
Mr. Bernardo M. Cremades, Arbitrator

ICSID Secretariat:

Ms. Marisa Planells-Valero, Secretary of the Tribunal
Ms. Anastasia Tsimberlidis, ICSID paralegal

Assistant to the Tribunal:

Ms. Charlotte Matthews

Participating on behalf of the Claimant:

Mr. Donald Francis Donovan, Debevoise & Plimpton LLP
Dr. Dietmar W. Prager, Debevoise & Plimpton LLP
Ms. Laura Sinisterra, Debevoise & Plimpton LLP
Mr. Nawi Ukabiala, Debevoise & Plimpton LLP
Ms. Julianne Marley, Debevoise & Plimpton LLP
Mr. Sebastian Dutz, Debevoise & Plimpton LLP
Ms. Mary Grace McEvoy, Debevoise & Plimpton LLP
Mr. Luis Carlos Rodrigo, Estudio Rodrigo Elias & Medrano Abogados
Mr. Francisco Cardenas, Estudio Rodrigo Elias & Medrano Abogados
Mr. Dan P. Kravets, Freeport-McMoRan Inc.
Mr. Scott Statham, Freeport-McMoRan Inc.
Ms. Julia Torreblanca, Sociedad Minera Cerro Verde S.A.A

Participating on behalf of the Respondent:

Prof. Stanimir A. Alexandrov, Stanimir A. Alexandrov, PLLC
Ms. Marinn Carlson, Sidley Austin LLP
Ms. Jennifer Haworth McCandless, Sidley Austin LLP
Ms. Maria Carolina Duran, Sidley Austin LLP
Mr. Ricardo Puccio, Estudio Navarro & Pazos Abogados
Mr. Oswaldo Lozano, Estudio Navarro & Pazos Abogados
Ms. Vanessa Rivas Plata, Republic of Perú
Ms. Mónica del Pilar Guerrero Acevedo, Republic of Perú
Ms. Mijail Feliciano Cienfuegos Falcon, Republic of Perú

The Tribunal and the Parties considered the following:

- The Draft Procedural Order circulated by the Tribunal Secretary on April 15, 2021; and
- The Parties' comments on the Draft Procedural Order received on May 7, 2021, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

Following the session, and having received further comments from the Parties on May 13 and June 3, 2021, 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 A**.

1. Applicable Arbitration Rules

Convention Article 44

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of April 10, 2006.
- 1.2. In addition, the Parties and the Tribunal note the applicability of certain provisions of the United States – Peru Trade Promotion Agreement (the “US-Peru TPA”) to the conduct of the proceedings.

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 6

- 2.1. The Tribunal was constituted on March 31, 2021, 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 March 31, 2021.
- 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

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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:

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 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.

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 and consultation with the other Members of the Tribunal is not possible on a timely basis, 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. Except as otherwise provided in this Order, if a ruling on a procedural matter has not been issued within one month after the final submission on a particular matter, the Tribunal will provide the Parties with status updates every month. If an Award or Decision on Jurisdiction (if any) has not been issued within six months after the final submission, 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 electronically in the form of a letter or email.

5.6. Any ruling of the Tribunal, including the certified copy of the award, will be dispatched electronically to the Parties.

6. Power to Fix Time Limits
Arbitration Rule 26(1)

6.1. The time limits set forth in Annex A shall govern this proceeding.

6.2. Short extensions of time may be agreed between the Parties as long as the Tribunal is promptly informed, and effort is made to avoid any disruption of the hearing date set in Annex A.

6.3. The President may fix time limits for the completion of the various steps in the proceeding, and it may also extend time limits for written submissions provided effort is made to avoid any disruption of the hearing date set in Annex A.

6.4. 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.

7. Secretary of the Tribunal
Administrative and Financial Regulation 25

7.1. The Tribunal Secretary is Ms. Marisa Planells-Valero, 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:

Ms. Marisa Planells-Valero
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
USA
Tel.: + 1 (202) 458-9273
Fax: + 1 (202) 522-2615
Email: mplanellsvalero@worldbank.org
Paralegal name: Anastasia Tsimberlidis
Paralegal email: atsimberlidis@worldbank.org

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

Ms. Marisa Planells-Valero
ICSID
1225 Connecticut Ave. N.W.
World Bank C Building
3rd Floor
Washington, D.C. 20036
USA
Tel. 202-458-1534

8. Appointment of Assistant to the Tribunal

8.1. By letter of April 15, 2021, the President of the Tribunal explained to the Parties that she considered that it would assist the overall cost and time efficiency of the proceedings if the Tribunal had an Assistant. In the same letter, the President of the Tribunal proposed, with the approval of the other members of the Tribunal, that Ms. Charlotte Matthews of the President's law firm, HANEFELD, be appointed as Assistant to the Tribunal. Ms. Matthews' curriculum vitae was distributed to the Parties on that same date.

8.2. The President also set out the tasks which may be assigned to the Assistant and noted that the Assistant is subject to the same confidentiality obligations as the Members of the Tribunal. Ms. Matthews has signed a declaration to that effect, which was distributed to the Parties by the ICSID Secretariat on April 26, 2021.

8.3. The Parties agree to the appointment of Ms. Matthews as Assistant to the Tribunal and that she receives (a) US\$ 100 for each hour of work performed in connection with the case or *pro rata*; (b) a flat rate of US\$ 800 per day of hearing; and (c) reimbursement of reasonable expenses related to the hearing, in accordance with Administrative and Financial Regulation 14 and the ICSID Memorandum on Fees and Expenses.

8.4. The contact information of the Assistant to the Tribunal is as follows:

Ms. Charlotte Matthews
HANEFELD Rechtsanwälte
27 rue Dumont d'Urville
75116 Paris
France
matthews@hanefeld-legal.com

9. Representation of the Parties

Arbitration Rule 18

9.1. Each Party shall be represented by its counsel (below) and may apply to the Tribunal for consent to designate additional agents, counsel, or advocates by notifying the Tribunal and the Tribunal Secretary promptly of such request for

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designation. The Tribunal may refuse designation of additional agents, counsel, or advocates if the designation would create a conflict of interest with one or more Members of the Tribunal. Once the Tribunal has authorized the designation, the Party will promptly notify the Tribunal and the Secretary of the Tribunal of such designation.

For Claimant

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Ms. Laura Sinisterra
Mr. Nawi Ukabiala
Ms. Julianne Marley
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and
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For Respondent

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Ms. Mónica del Pilar Guerrero Acevedo
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10. Apportionment of Costs and Advance Payments to ICSID

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

- 10.1. 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.
- 10.2. By letter of April 6, 2021, ICSID requested that each Party pay US\$ 150,000 to cover the initial costs of the proceeding. ICSID confirmed receipt of Claimant's payment on May 3, 2021 and the Respondent's payment on April 26, 2021.
- 10.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

11. Place of Proceeding

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

- 11.1. Washington, DC shall be the place of the proceeding and the hearing on the merits and jurisdiction (if applicable) shall be held in Washington, D.C.
- 11.2. The Tribunal may hold in-person hearings other than the hearing on the merits and jurisdiction (if applicable) at any other place that it considers appropriate if the Parties so agree. The Tribunal may hold meetings or hearings other than the hearing on merits and jurisdiction by telephone or video conference provided that the Parties so agree.
- 11.3. The Tribunal Members may deliberate at any place and by any appropriate means the Tribunal considers convenient.

12. Procedural Language(s), Translation and Interpretation

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

- 12.1. English and Spanish are the procedural languages of the arbitration.
- 12.2. Routine, administrative, or procedural correspondence addressed to or sent by the ICSID Secretariat shall be in English.

For Parties' Pleadings

- 12.3. All written submissions, including written requests, applications, pleadings, document requests, and the corresponding responses or objections, and replies (i.e., the Parties' Redfern Schedules) shall be submitted in English.
- 12.4. Expert opinions, witness statements, and any other accompanying documentation may be submitted in either procedural language. Any translations that a Party wishes to submit of expert opinions and witness statements, or any other accompanying documentation shall be submitted within three (3) weeks of the date of the original submission.
- 12.5. If translation of an exhibit is being provided and the exhibit is lengthy and relevant only in part, it is sufficient to translate only the 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.
- 12.6. Translations need not be certified. If a Party disagrees with a translation of a witness statement, expert report or any accompanying documentation, the Parties shall attempt to reach agreement on the translation. If no agreement is reached within 14 calendar days of a Party notifying its disagreement with the translation to the other Party, the Tribunal shall take the necessary decision, for which it may appoint a certified translator to have the document(s) in question translated.
- 12.7. Documents exchanged between the Parties under §16 below (Production of Documents) may be produced in the original language and need not be translated.

For Hearing

- 12.8. Simultaneous interpretation from English to Spanish and from Spanish to English shall be available throughout all hearings when necessary in accordance with §12.10.
- 12.9. The testimony of a witness called for examination during the hearing who prefers to give evidence in a language other than the English and Spanish language(s) shall be interpreted, simultaneously if possible into English and Spanish.
- 12.10. The Parties shall notify the Tribunal, as soon as possible, and no later than at the pre-hearing organizational meeting (see §20 below), which witnesses or experts require interpretation.
- 12.11. The costs of the interpreter(s) shall 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.

For Tribunal's Documents Except the Award

12.12. The Tribunal shall make any order or decision in English.

For Tribunal's Award

12.13. The Tribunal shall render the award in English and Spanish simultaneously. Both language versions shall be equally authentic.

13. Routing of Communications

Administrative and Financial Regulation 24

13.1. Written communications in the case shall be transmitted by email or other electronic means to the Parties, the Tribunal Secretary, the Tribunal, and the Assistant to the Tribunal.

13.2. 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, the Tribunal, and the Assistant to the Tribunal once filings from both Parties have been received.

13.3. The Tribunal Secretary shall not be copied on communications between the Parties when such communications are not intended to be transmitted to the Tribunal.

13.4. The email addresses of the Members of the Tribunal are:

Dr. Inka Hanefeld
hanefeld@hanefeld-legal.com

Prof. Dr. Guido Santiago Tawil
guidotawil@arb-chambers.com

Mr. Bernardo M. Cremades
bcremades@bcremades.com

13.5. The email address of the Assistant to the Tribunal is:

Ms. Charlotte Matthews
matthews@hanefeld-legal.com

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

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

14.1. By the relevant filing date, the Parties shall

14.1.1. Submit by email to the Tribunal Secretary and the opposing Party an electronic file of the pleading with witness statements, expert reports and an index of all the supporting documentation attached to the pleading (the "Electronic Email Filing");¹

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

- 14.1.2. Within three (3) business days after the Electronic Email Filing upload the pleading, with all the supporting documentation (i.e., all witness statements, expert reports, exhibits, legal authorities) and updated index to the file sharing platform that will be created by ICSID for purposes of this case (the “Electronic Platform Filing”), and upload any translations to the file sharing platform no later than three (3) weeks from the Electronic Platform Filing.
- 14.2. Within five calendar days of the Electronic Platform Filing (if no translations will be filed) or of the filing of the translations (if any translations are filed), the Parties shall:
- 14.2.1. Courier to the opposing Party at the address(es) indicated at §9 above one USB drive with a full copy of the entire submission, including the pleading, the witness statements, expert reports, exhibits, legal authorities, and a consolidated index listing all supporting documentation submitted by the Parties to date.
- 14.2.2. Courier to the President of the Tribunal² and Mr. Cremades at the addresses indicated in §14.7 below:
- 14.2.2.1. one USB drive with a full copy of the entire submission, including the pleading, the witness statements, expert reports, exhibits, legal authorities, and a consolidated index listing all supporting documentation submitted by the Parties to date; and
- 14.2.2.2. one hard copy of the pleadings, witness statements and expert reports (but not the exhibits and legal authorities) in A-5 format, double-sided, spiral bound and in soft covers.
- 14.2.3. Courier to Prof. Dr. Tawil one USB drive with a full copy of the entire submission, including the pleading, the witness statements, expert reports, exhibits, legal authorities, and a consolidated index listing all supporting documentation submitted by the Parties to date.
- 14.3. Exhibits may be submitted in an extension other than .pdf when technically required (ie, .xls (Excel) or .rar (WinRAR) files). Exhibits that cannot be printed in a usable size may be submitted only in digital format.
- 14.4. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word). Excel spreadsheets must show the formulae used.

² For the President of the Tribunal: In English Only

14.5. All pleadings shall be accompanied by a cumulative index listing all the exhibits and legal authorities that the Parties have submitted up to the date of the pleading in the format proposed at Annex C. The index shall indicate the document number exhibit or authority number and a short description of the document, its date, the language of the document and the pleading with which it was submitted. The Parties will also follow the naming conventions contained in Annex B.

14.6. 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 at the address indicated at §7.2 above and to each Member of the Tribunal at the addresses indicated at §14.7 below a USB 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.

14.7. The addresses of the Tribunal Members are as follows:

| | | |
|---|--|---|
| Dr. Inka Hanefeld Hanefeld Rechtsanwälte Rechtsanwalts-gesellschaft mbH Brooktorkai 20 20457 Hamburg Germany | Prof. Dr. Guido Santiago Tawil Ed. Aguas Azules II Ap 003 Rbla. Lorenzo Battle Pacheco Pda. 32 20167-01236 Punta del Este, Maldonado Uruguay | Mr. Bernardo M. Cremades B. Cremades y Asociados Goya, 18, 28001 Madrid, Spain |
|---|--|---|

14.8. The official date of receipt of a pleading or communication shall be the day on which the electronic file is sent to the Tribunal Secretary by email.

14.9. A filing shall be deemed timely if sent by a Party by midnight, Washington, D.C. time, on the relevant date.

15. Number and Sequence of Pleadings
Arbitration Rules 20(1)(c), 20(1)(e), 29 and 31

15.1. The Parties agree upon the schedule attached as **Annex A**.

16. Production of Documents
Convention Article 43(a); Arbitration Rules 24 and 33-36

16.1. The timetable for document production and any subsequent submissions shall be as set forth in Annex A, and the following procedures shall apply:

16.2. The Parties undertake to take all necessary steps to ensure the preservation of all documents relating to the matters in issue in this arbitration, including, to the extent

they have not done so already, by sending document preservation notices to all relevant individuals and bodies, which, in the case of Respondent, are the Ministry of Energy and Mines, Ministry of Economy and Finance, SUNAT, the Tax Tribunal, and ProInversión (the “*Agencia de Promoción de la Inversión Privada*”), who might be in possession or control of documents relating to the issues relevant in this arbitration.

- 16.3. Claimant (i.e., for purposes of this sentence, Claimant’s party representatives and Claimant’s counsel) and Respondent (i.e., for purposes of this sentence, Members of the Special Commission and Respondent’s Counsel) further affirm that they are not aware of the destruction, deletion, or alteration of any documents relating to this arbitration since the filing of the Notice of Intent in November 2019 other than that which may have occurred in the ordinary course of business.
- 16.4. The 2020 IBA Rules on the Taking of Evidence in International Arbitration (the “IBA Rules”) shall be used as guidelines by the Parties and the Tribunal for the production of evidence, but they shall not be binding on the Tribunal.
- 16.5. On the applicable date specified in **Annex A**, each Party may serve requests for production of documents on the other Party. Every request for production of documents shall precisely identify each document, or category of documents, sought and establish its relevance and materiality to the outcome of the dispute. Each request must also explain why the requesting Party assumes the documents are in the possession, custody, or control of the other Party. Such a request shall not be copied to the Tribunal, the Assistant to the Tribunal, or the Tribunal Secretary.
- 16.6. Each Party shall state in writing its responses or objections to the requested documents with reference to the objections listed in Article 9(2) of the IBA Rules on the applicable date specified in Annex A. Such responses and objections shall not be copied to the Tribunal, the Assistant to the Tribunal, or the Tribunal Secretary.
- 16.7. On the applicable date specified in **Annex A**, each Party shall (except in respect of any document requests that are subject to objections presented in accordance with §16.6 above) provide the other Party with the documents that are responsive to the other Party’s request. Such productions shall not be copied to the Tribunal, the Assistant to the Tribunal, or the Tribunal Secretary.
- 16.8. On the applicable date specified in **Annex A**, the requesting Party shall file its replies in writing with the Tribunal, the Assistant to the Tribunal, and the Tribunal Secretary concerning any production response or objection made by the other Party, with a copy of such replies to be simultaneously provided to the other Party.
- 16.9. Prior to ruling on any objections to document production requests, the Tribunal will hold an organizational meeting with the Parties on the date specified in **Annex A**, should the Tribunal consider that such a meeting would be helpful for purposes of making its rulings on document production requests.

- 16.10. The Tribunal shall rule on the objections by the date specified in **Annex A**.
- 16.11. Any Party whose objection is not sustained by the Tribunal shall produce the requested documents by the document production completion date specified in **Annex A**.
- 16.12. The requests, responses or objections to the requests, the replies to the responses or objections to the requests, and the Tribunal's decisions referred to in this §16 shall be recorded in a joint schedule in the format set out in **Annex D** (the "Redfern Schedule").
- 16.13. Neither Party shall be permitted to submit additional requests for the production of documents, save under justified circumstances at the discretion of the Tribunal upon a reasoned written request followed by observations from the other Party.

17. Submission of Documents

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

- 17.1. 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.
- 17.2. The documents shall be submitted in the manner and form set forth in §14 above.
- 17.3. Neither Party shall be permitted to submit additional or responsive documents after the filing of its respective last pre-hearing written submission, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other Party.
- 17.3.1. 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.
- 17.3.2. 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.
- 17.4. The Tribunal may call upon the Parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 34(2).
- 17.5. The documents shall be submitted in the following form:
- 17.5.1. The number of each Exhibit containing a document produced by Claimant shall be preceded by the letter "CE-" for factual exhibits and "CA-" for legal exhibits containing authorities etc. The number for each Exhibit containing a

document produced by Respondent shall be preceded by the letter “RE-” for factual exhibits and “RA-” for legal exhibits containing authorities etc.

17.5.2. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “CE-0001” and “RE-0001,” and “CA-001” and “RA-001” respectively. The numbering shall also indicate the language of the document e.g. CE-0001-ENG for a document submitted in English, CE-0001-SPA for a document submitted in Spanish. The number of the exhibit or legal authority shall appear on the first page of the document.

17.5.3. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex B**.

17.6. 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.

17.7. The Parties shall file all documents only once by submitting them with their pleadings. Documents need not be resubmitted with witness statements even if referred to in such statements.

17.8. Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc. that compile or display record evidence in new formats) may be used at any hearing, provided they contain no new evidence or 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 form and, if requested, in 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.

17.9. Sections 17.1 to 17.8 above shall also apply to any non-documentary evidence submitted by the Parties, such as audio and video files.

18. Witness Statements and Expert Reports

Convention Article 43(a); Arbitration Rule 24

18.1. Witness statements and expert reports shall be filed together with the Parties’ pleadings.

18.2. Neither Party shall be permitted to submit any testimony that has not been filed with the written submissions, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other Party (following the procedure outlined in §17.3).

18.3. Each witness statement and expert report shall be signed and dated by the witness. Electronic signatures (e.g., scanned signatures) are acceptable.

19. Examination of Witnesses and Experts

Arbitration Rules 35 and 36

19.1. Each witness whose witness statement and expert whose statement or report has been submitted as set forth in §18 above shall be available for examination at the hearing, subject to the provisions of this Order.

19.2. On the date provided in **Annex A**, each Party shall notify the other Party, which of such other Party's witnesses and experts it wishes to cross-examine at the hearing. On the date provided in **Annex A**, each Party shall notify the other Party, which of its witnesses and experts it will call for direct examination at the hearing. On the date provided in **Annex A**, the Parties will send a consolidated list of the witnesses and experts that will be called to the Tribunal. With respect to the witnesses called for direct examination who were not originally called to appear by the other Party, the other Party reserves its right to cross-examine those witnesses. The fact that a Party does not call for cross-examination a witness or expert whose statement has been submitted with the other Party's written submissions does not mean that it accepts the substance or content of the statement or expert opinion.

19.3. The Tribunal may call for examination any witness or expert, even if not called by the Parties. Within one week of the Party's notifications pursuant to §19.2 above, the Tribunal will communicate to the Parties the witnesses or experts not called by the Parties whom it wishes to question, if any.

19.4. No witness called by a Party shall be allowed to testify unless a written witness statement has been provided from that witness with the written submission relying on such witness statement. In the witness statement and prior to giving oral evidence at the hearing, each witness shall affirm that his or her written and oral statements are true, correct, and materially complete.

19.5. No expert called by a Party shall be allowed to testify unless a written expert report has been provided from that expert together with the written submission relying on such report. In the expert report and prior to giving oral evidence at the hearing, each expert shall affirm that his or her written and oral statements are true, correct, and materially complete.

19.6. If a witness or expert fails to testify at the hearing without justification, the Tribunal may order the witness statement of such witness or report or statement 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 or statement. If a witness's or expert's absence is determined to be justified (e.g., health) the Tribunal may rely on the witness statement or expert report or statement after hearing the Parties.

- 19.7. The procedure for examining witnesses and experts at the hearing shall be the following:
- 19.7.1. Although direct examination of witnesses will be given in the form of witness statements, the Party presenting the witness may conduct a brief direct examination. Such direct examination shall be confined to the facts included in the witness statement, save that, with the prior authorization of the Tribunal requested with reasonable advance notice, there may be limited direct examination of witnesses in respect of new facts or issues that arose since the date of the witness's last signed statement.
 - 19.7.2. Experts giving oral evidence may first give a presentation of the key points of their reports either directly and/or through direct examination. The permissible duration of such a presentation shall be established prior to the hearing.
 - 19.7.3. The adverse Party may cross-examine a witness on matters that were addressed or presented in the witness statement or during direct examination. The adverse Party may cross-examine an expert on matters that were addressed or presented in the expert report or during direct examination or presentation.
 - 19.7.4. The Party presenting the witness or expert may then re-examine the witness or expert with respect to any matters or issues arising out of the cross-examination.
 - 19.7.5. The Tribunal may examine a witness or expert at any time, either before, during or after examination by any of the Parties.
- 19.8. The Tribunal may, at its discretion and considering the circumstances of the case, allow one Party representative for each Party who is also a factual witness to be present in the hearing room during opening statements. Such witnesses, however, shall not otherwise be allowed to be present in the hearing room (or have access to the hearing transcript) until after they have testified.
- 19.9. Each Party shall be responsible for the practical arrangements, cost and availability of any witness or experts it offers. Subject to ICSID Arbitration Rule 28, the Tribunal will ultimately decide upon the appropriate allocation of such costs.
- 19.10. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, prepare the witness statements, and prepare for the examinations. Once direct examination begins, a witness shall remain sequestered until his or her testimony is complete.
- 19.11. Examination by videoconference may be permitted for justified reasons at the discretion of the Tribunal, upon consultation with the Parties.

19.12. Each Party shall determine the order in which its witnesses and experts will be called to testify.

19.13. Other matters regarding hearings shall be addressed at the pre-hearing organizational meeting.

20. Pre-Hearing Organizational Meetings

Arbitration Rule 13

20.1. A pre-hearing organizational meeting shall be held at least three weeks prior to the hearing, as specified in **Annex A** at a date determined by the Tribunal after consultation with the Parties. It shall comprise a teleconference between the Tribunal, or its President, and the Parties and should resolve any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.

20.2. At a date to be determined by the Tribunal, and in any event no later than the date of the pre-hearing conference, the Parties shall submit to the Tribunal jointly – or, where they are unable to agree, separately – a proposal regarding a daily schedule for the hearing.

21. Hearings

Arbitration Rules 20(1)(e) and 32

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

21.2. The hearing shall be held in-person except upon a determination by the Tribunal after consultation with the Parties that due to compelling circumstances the hearing must be held by videoconference or by any other appropriate means of communication. An in-person hearing shall be held at a place to be determined in accordance with §11 above.

21.3. The hearing shall take place on the dates indicated in **Annex A**.

21.4. The Members of the Tribunal shall reserve at least one day immediately after the hearing to determine the next steps and to hold deliberations.

21.5. The hearing shall proceed using a “chess clock” format whereby each party is afforded equal time to present its case, including how it wishes to allocate time for opening statements, closing arguments, and witness and expert examination.

21.6. To facilitate references to the main documents on which the Parties intend to rely at the hearing, the Parties shall prepare a joint physical hearing bundle containing only a set of essential factual/legal documents on which the Parties are most likely to

rely, together with a table of contents for such bundle. To achieve this, each Party shall incorporate the documents that it considers appropriate. The Parties will then prepare a joint bundle to avoid any duplications. The documents in the bundle 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 and provided to the Members of the Tribunal, the Assistant to the Tribunal, and Secretary of the Tribunal on the date provided in **Annex A**.

22. Records of Hearings and Sessions

Arbitration Rules 13 and 20(1)(g)

22.1. Sound recordings shall be made of all hearings and sessions. If a hearing or session is conducted virtually, video recordings may be made as well. Any such sound and/or video recordings of the Proceeding shall be provided to the Parties and the Tribunal Members. Any such recordings may not be used in the parallel proceeding *SMM Cerro Verde Netherlands B.V. v Republic of Peru* (ICSID Case No. ARB/20/14) (the **SMM Cerro Verde arbitration**), except (i) for impeachment purposes, (ii) to share with witnesses and experts that participate both in this Proceeding and in the *SMM Cerro Verde* arbitration, and (iii) for any other purpose in connection with the *SMM Cerro Verde* arbitration, subject to leave from the *SMM Cerro Verde* tribunal.

22.2. Verbatim transcripts in the procedural languages shall be made of any hearing and session other than sessions on procedural issues. Transcripts shall be provided to the Parties and the Tribunal Members. Unless otherwise agreed by the Parties or ordered by the Tribunal, (i) the verbatim transcripts shall, if possible, be available in real-time using LiveNote or similar software and (ii) electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.

22.3. The Parties shall seek to agree on a procedure for correcting transcripts at the end of the hearing. If the Parties cannot reach agreement on the procedure within 14 calendar days of the end of the hearing, the Tribunal shall determine the procedure, upon consultation with the Parties.

22.4. All necessary arrangements for audio or video recordings and verbatim transcription shall be made by ICSID.

22.5. Verbatim transcripts of this Proceeding made publicly available by Respondent pursuant to Article 10.21.1.(d) of the US-Peru TPA may be used by the Parties' counsel for any purpose in the *SMM Cerro Verde* arbitration, subject to leave from the *SMM Cerro Verde* tribunal.

23. Post-Hearing Memorials and Statements of Costs

Convention Article 44; Arbitration Rule 28(2)

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23.1. The scope and format of post-hearing submissions, if any, will be determined by the Tribunal at the conclusion of the hearing, upon consultation with the Parties. Post-hearing submissions shall have page-limits, and not contain new evidence, documents, sources, witness statements or expert reports or opinions.

23.2. In accordance with Arbitration Rule 28(2), promptly after the closure of the proceeding, each Party shall simultaneously submit to the Secretary of the Tribunal a factual statement of its costs reasonably incurred or borne by it in the proceeding. The scope and format of the statements of costs will be determined by the Tribunal at the conclusion of the hearing, upon consultation with the Parties.

24. Use of Documents, Witness Statements and Expert Reports from this Proceeding in the *SMM Cerro Verde* arbitration

24.1. Produced documents, witness statements and expert reports from this Proceeding shall be kept confidential by the Parties, except that the Parties' counsel may use such documents for impeachment purposes, subject to leave from the *SMM Cerro Verde* tribunal.

24.2. Produced documents, witness statements, and/or expert reports from this Proceeding may not be shared with witnesses and experts in the *SMM Cerro Verde* arbitration, unless a witness and/or expert participates in both this Proceeding and the *SMM Cerro Verde* arbitration and subject to leave from the *SMM Cerro Verde* tribunal. The Parties will adopt all reasonable steps to prevent their witnesses and experts who are not participating in both arbitrations from accessing this information.

24.3. The Parties' counsel may use any documents, including all written submissions or portions thereof of this Proceeding that Respondent has made publicly available pursuant to Article 10.21.1.(a), (b), (c) and (e) of the US-Peru TPA for any purpose in the *SMM Cerro Verde* arbitration, subject to leave from the *SMM Cerro Verde* tribunal.

25. Use of *SMM Cerro Verde* arbitration Documents, Witness Statements, and Expert Reports in this Proceeding

25.1. Each Party may submit written submissions, transcripts, recordings, witness statements, expert reports, produced documents, orders, awards and decisions from the *SMM Cerro Verde* arbitration in this Proceeding subject to a written reasoned request and leave from the Tribunal in this Proceeding.

26. Non-Disputing Party or Amicus Curiae Submissions

Articles 10.20.2 and 10.20.3 of the US-Peru TPA; Arbitration Rule 37(2)

26.1. In accordance with Article 10.20.2 of the US-Peru TPA, a non-disputing Party may make oral and/or written submissions to the Tribunal regarding the interpretation of the US-Peru TPA ("Non-Disputing Party"), and, in accordance with Article

10.20.3 of the US-Peru TPA, the Tribunal may accept and consider amicus curiae submissions from a person or entity that is not a disputing party. The Tribunal can admit the latter at its discretion, no later than the date indicated in **Annex A**, if the Tribunal determines such submission(s) would be helpful to the Tribunal, consistent with ICSID Arbitration Rule 37(2).

26.2. Any Non-Disputing Party or amicus curiae written submission shall be submitted no later than the date indicated in **Annex A**. The Parties will have an opportunity to provide comments on the admissibility of any proposed amicus curiae submissions simultaneously by the date indicated in **Annex A**. The Parties will then have the opportunity to respond to any Non-Disputing Party submissions, or any amicus curiae submissions that the Tribunal may have admitted, in accordance with the schedule provided in **Annex A**.

26.3. Oral submissions (if any) by the Non-Disputing Party shall take place during the hearing. Details of any such oral submission will be discussed at the latest at the pre-hearing organizational meeting set forth in **Annex A**.

27. Non-Disclosure of Information

Articles 10.21, 10.28, 22.2 and 22.4 of the US-Peru TPA

27.1. The Parties agree that “protected information” is as defined in Article 10.28 of the US-Peru TPA. Article 10.28 states in relevant part, “protected information means confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law.” Article 10.21 of the US-Peru TPA applies to such protected information.

27.2. In addition, and in accordance with Articles 22.2 or Article 22.4 of the US-Peru TPA, Respondent shall not be required to disclose information that Respondent deems to be “contrary to its essential security interests” or to “impede law enforcement or otherwise be contrary to the public interest or which would prejudice the legitimate commercial interests of particular enterprises public or private” (hereinafter, **Article 22.2 and 22.4 Information**). The production of such information may not be compelled from the Respondent, nor may such information be publicly disclosed, in accordance with §28 (Transparency) below.

27.3. For the purposes of this Order, “protected information” and “Article 22.2 and 22.4 Information” are collectively referred to as “**non-disclosure information**”.

27.4. The Parties agree that the US-Peru TPA applies to the extent applicable and that this Order does not add or subtract any rights from the TPA.

28. Transparency

Convention Article 48(5), Administrative and Financial Regulation 22, Arbitration Rule 48(4); Article 10.21 of the US-Peru TPA

- 28.1. In accordance with Article 10.21 of the US-Peru TPA, hearings shall be open to the public, subject to a procedure to ensure that “non-disclosure information” is not disclosed to the public.
- 28.2. Any hearing held remotely over a secure video-conference platform will be video recorded, and the video recording will be streamed in the English and Spanish languages on the ICSID website as soon as possible after the conclusion of the hearing, subject to a procedure to ensure that “non-disclosure information” is not disclosed to the public. An announcement to this effect will be published on the ICSID website.
- 28.3. The Parties consent to ICSID’s publication of the documents listed in Article 10.21.1 of the US-Peru TPA, subject to the applicable protective procedures required under Articles 10.21.2, 10.21.3, and 10.21.4 of the US-Peru TPA. They are: (a) the notice of intent; (b) the notice of arbitration; (c) pleadings, memorials and briefs submitted to the Tribunal by a Party and any written submissions submitted to the Tribunal pursuant to Article 10.20.2, 10.20.3 and Article 10.25 of the US-Peru TPA; (d) minutes or transcripts of hearings, where available; and (e) orders, awards, and decisions of the Tribunal.
- 28.4. For purposes of § 28.3 above, the reference in Article 10.21.1 of the US-Peru TPA to the “notice of arbitration” and to “pleadings, memorials and briefs” does not include accompanying material (i.e., witness statements, expert reports, exhibits and legal authorities).
- 28.5. The Parties agree that Respondent, and not ICSID, retains the obligation to transmit the documents listed in § 28.3 above to the United States of America (the Non-Disputing Party under the US-Peru TPA), and make them available to the public as required by Article 10.21 of the US-Peru TPA.
- 28.6. The Parties agree that the following procedure applies to the redaction of “non-disclosure information” prior to publication.

28.6.1. For the notice of intent and the notice of arbitration, which pre-date this order:

Within 21 calendar days of the date of this Order, Claimant shall submit redacted versions that do not contain any “non-disclosure information.” Within 21 calendar days of the date that the redacted versions are submitted to the Tribunal, Respondent shall notify Claimant and the Tribunal whether it objects to any of Claimant’s redactions. If Respondent objects to any of Claimant’s redactions, the Parties shall undertake their best efforts to resolve these objections. If the Parties cannot resolve Respondent’s objections within 14 calendar days and upon the request of either Party, then the Tribunal will decide the issue.

28.6.2. For pleadings, memorials, and briefs:

Any Party claiming that certain information constitutes “non-disclosure information” shall clearly designate the information at the time it is submitted to the Tribunal and submit a redacted version of the document, in electronic version only, that does not contain the information within 10 business days. Within 21 calendar days of the date of the redacted document’s submission to the Tribunal, the other Party shall notify the Party submitting the document and the Tribunal whether it objects to any of the redactions. The Parties shall undertake their best efforts to resolve these objections. If the Parties cannot resolve the objections within 14 calendar days and upon the request of either Party, then the Tribunal will decide the issue.

If the Tribunal determines that any information that a Party sought to redact is not “non-disclosure information”, that Party may resubmit the document according to the procedures set out in Article 10.21.4(d) of the US-Peru TPA.

28.6.3. For minutes or transcripts of hearings and orders, awards, and decisions of the Tribunal:

The Parties shall within 21 calendar days of dispatch by the ICSID Secretariat submit redacted versions that do not contain any “non-disclosure information”. Within 21 calendar days of the date that the redacted versions are submitted to the Tribunal, each Party shall notify the other Party and the Tribunal whether it objects to any of the redactions. If there are objections, the Parties shall undertake their best efforts to resolve these objections. If the Parties cannot resolve the objections within 14 calendar days and upon the request of either Party, then the Tribunal will decide the issue.

28.7. Neither the Parties nor the Tribunal shall disclose to the United States of America (the Non-Disputing Party under the US-Peru TPA) or to the public any “non-disclosure information” redacted in accordance with this Order or a subsequent ruling of the Tribunal.

29. Proposed Decision or Award

Article 10.20.9(a) of the US-Peru TPA

29.1. In accordance with Article 10.20.9(a) of the US-Peru TPA, at the request of a Party, the Tribunal shall, before issuing a decision or award on liability, transmit its proposed decision or award to the Parties and to the United States of America (the Non-Disputing Party under the US-Peru TPA).

29.2. A Party must make the request for the transmission of the proposed decision or award either 14 calendar days after any hearing on liability or 14 calendar days after the Party's last post-hearing submission, whichever is later.

29.3. Within 60 calendar days after the Tribunal transmits its proposed decision or award, the disputing Parties may submit written comments to the Tribunal concerning any aspect of its proposed decision or award. The Tribunal shall consider any such comments and issue its decision or award, no later than 45 calendar days after the expiration of the 60-calendar day comment period.

30. Other Matters – Document Security

30.1. Unless otherwise provided in this Procedural Order, all communications and submissions in this Proceeding shall be transmitted using only secure email accounts used primarily for business purposes and USB drives and file transfer platforms that are duly encrypted. In the event that any Party becomes aware of an actual or reasonably suspected data breach, i.e., unauthorized or unintentional access to any documents disclosed in connection with the arbitration, that Party shall immediately notify the Tribunal and the other Party. In case of special need, the Parties may agree upon or request from the Tribunal any further cybersecurity measures.

30.2. In the event of specific concerns about document security, any Party may, at any time during the Proceeding, request that the Tribunal issues a Confidentiality Order in respect of any particular document/s that contain sensitive information or a procedural order concerning document security or confidentiality more generally. The Tribunal will consult with the Parties before making any such order.

[signed]

Dr. Inka Hanefeld
President of the Tribunal
Date: June 17, 2021

Freeport-McMoRan Inc. v. Republic of Peru
(ICSID Case No. ARB/20/8)

Procedural Order No. 1

ANNEX A: PROCEDURAL CALENDAR

| Procedural Step | By | Deadline |
|--|------------------|-----------------------------------|
| Memorial | Freeport | Tuesday, October 19, 2021 |
| Counter-Memorial and Memorial on Jurisdiction <i>(if any)</i> | Republic of Peru | Monday, April 18, 2022 |
| Exchange of Document Requests | Both Parties | Monday, May 9, 2022 |
| Exchange of Responses and Objections to Disputed Requests | Both Parties | Monday, May 23, 2022 |
| Submission of Replies to Production Responses and Objections | Both Parties | Monday, June 6, 2022 |
| Organizational Meeting on Document Requests <i>(if any)</i> | All | Monday, June 13, 2022 |
| Production of Documents Responsive to Undisputed Document Requests <i>(if any)</i> | Both Parties | Wednesday, June 22, 2022 |
| Ruling on Disputed Document Requests <i>(if any)</i> | Tribunal | Monday July 4, 2022 |
| Completion of Document Production | Both Parties | Monday, July 25, 2022 |
| Reply and Counter-Memorial on Jurisdiction <i>(if any)</i> | Freeport | Tuesday, August 30, 2022 |
| Rejoinder and Reply on Jurisdiction <i>(if any)</i> | Republic of Peru | Thursday, November 3, 2022 |
| Rejoinder on Jurisdiction <i>(if any)</i> | Freeport | Friday, December 16, 2022 |

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Procedural Order No. 1

| Procedural Step | By | Deadline |
|--|--------------------------------|----------------------------------|
| Non-Disputing Party and Amicus Submissions (<i>if any</i>) | Non-Disputing Party and Amicus | Friday, February 24, 2023 |
| <i>Inter Partes</i> Notification of Witnesses/Experts to be Called at the Hearing for Cross Examination | Both Parties | Monday, February 27, 2023 |
| <i>Inter Partes</i> Notification of Witnesses/Experts to be Called at the Hearing for Direct Examination (<i>if any</i>) | Both Parties | Friday, March 3, 2023 |
| Parties' Notification to Tribunal of Witnesses/Experts to be Called | Both Parties | Thursday, March 9, 2023 |
| Party Comments on Admissibility of Amicus Submissions | Both Parties | Friday, March 10, 2023 |
| Tribunal Notification of Additional Witnesses/Experts to be Called (<i>if any</i>) | Tribunal | Monday, March 13, 2023 |
| Tribunal Decision on Admissibility of Amicus Submissions | Tribunal | Friday, March 17, 2023 |
| Pre-Hearing Meeting | All | Monday, March 20, 2023 |
| Parties' Comments on Non-Disputing Party and Amicus Submissions | Both Parties | Friday, April 7, 2023 |
| Submission of Hearing Bundle | Both Parties | Friday, April 7, 2023 |

Freeport-McMoRan Inc. v. Republic of Peru
(ICSID Case No. ARB/20/8)

Procedural Order No. 1

| Procedural Step | By | Deadline |
|---|--------------|--------------------------|
| Hearing | All | May 1 to 12, 2023 |
| Post-Hearing Submissions <i>(if any)</i> | Both Parties | TBD at End of Hearing |
| TPA Article 10.20.9(a) Request and Comment Periods <i>(if any)</i> | Both Parties | TBD after Hearing |

Freeport-McMoRan Inc. v. Republic of Peru
(ICSID Case No. ARB/20/08)

Procedural Order No. 1

ANNEX B:

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 | CE-####–LANGUAGE |
| | RE-####–LANGUAGE |
| | To be produced sequentially throughout the case. |
| | CLAIMANT’S FACTUAL EXHIBITS |
| | <i>CE-0001-ENG</i> |
| | <i>CE-0002-SPA</i> |
| | RESPONDENT’S FACTUAL EXHIBITS |
| | <i>RE-0001-FR</i> |
| | <i>RE-0002-SPA</i> |
| | Legal Authorities |
| RA-####–LANGUAGE | |
| To be produced sequentially throughout the case. | |
| CLAIMANT’S LEGAL AUTHORITIES | |
| <i>CA-0001-ENG</i> | |
| <i>CA-0002-FR</i> | |
| RESPONDENT’S LEGAL AUTHORITIES | |
| <i>RA-0001-SPA</i> | |
| <i>RA-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> |

Freeport-McMoRan Inc. v. Republic of Peru
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| | |
|---|--|
| 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 Statements, Expert Reports, Legal Opinions | WITNESS/EXPERT INITIALS-### |
| | <i>For exhibits filed with the Witness Statement of [Maria Jones]</i> |
| | <i>MJ-0001</i> |
| | <i>MJ-0002</i> |
| | <i>For exhibits filed with the Legal Opinion of [Tom Kaine]</i> |
| | <i>TK-0001</i> |
| | <i>TK-0002</i> |
| | <i>For exhibits filed with the Expert Report of [Lucia Smith]</i> |
| | <i>LS-0001</i> |
| <i>LS-0002</i> | |
| INDICES | Consolidated Hyperlinked Index |
| | Index of Exhibits-CE-#### to CE-#### |
| | <i>Index of Exhibits-CE-0001 to CE-0023</i> |
| | Index of Legal Authorities-RA-### to RA-### |
| <i>Index of Legal Authorities-RA-0001 to RA-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 D - SCHEDULE OF DOCUMENT REQUESTS

Freeport-McMoRan Inc. v. Republic of Peru

(ICSID Case No. ARB/20/8)

| | |
|--|----------|
| Document Request No. | 1 |
| Documents or category of requested documents | |
| Relevance and materiality: (1) para ref to submissions (2) comments | |
| Agreement to produce or Summary of objections by disputing Party to production of requested documents | |
| Requesting party reply | |
| Decision of the Tribunal | |

ANNEX D - SCHEDULE OF DOCUMENT REQUESTS
Freeport-McMoRan Inc. v. Republic of Peru
(ICSID Case No. ARB/20/8)

| | |
|--|---|
| Document Request No. | 2 |
| Documents or category of requested documents | |
| Relevance and materiality: (1) para ref to submissions (2) comments | |
| Agreement to produce or Summary of objections by disputing Party to production of requested documents | |
| Requesting party reply | |
| Decision of the Tribunal | |

ANNEX D - SCHEDULE OF DOCUMENT REQUESTS
Freeport-McMoRan Inc. v. Republic of Peru
(ICSID Case No. ARB/20/8)

| | |
|--|----------|
| Document Request No. | 3 |
| Documents or category of requested documents | |
| Relevance and materiality: (1) para ref to submissions (2) comments | |
| Agreement to produce or Summary of objections by disputing Party to production of requested documents | |
| Requesting party reply | |
| Decision of the Tribunal | |