

**IN THE MATTER OF AN ARBITRATION
BEFORE A TRIBUNAL CONSTITUTED IN ACCORDANCE WITH
THE FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF KOREA AND THE
UNITED STATES OF AMERICA, DATED 30 JUNE 2007**

- and -

**THE ARBITRATION RULES OF THE UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW, 1976**

PCA CASE N° 2018-55

-between-

- 1. MASON CAPITAL, L.P. (U.S.A.)**
- 2. MASON MANAGEMENT LLC (U.S.A.)**
(the “Claimants”)

-and-

REPUBLIC OF KOREA
(the “Respondent,” and together with the Claimants, the “Parties”)

PROCEDURAL ORDER NO. 8

The Arbitral Tribunal

Professor Dr. Klaus Sachs (Presiding Arbitrator)

The Rt. Hon. Dame Elizabeth Gloster

Professor Pierre Mayer

Registry

Permanent Court of Arbitration

16 August 2021

WHEREAS on 12 March 2020, the Tribunal issued Procedural Order No. 4 establishing the Procedural Calendar for the current phase of the proceedings and setting hearing dates;

WHEREAS on 15 April 2021, in light of the Claimants' request to vary the time limits for the filing of the Parties' submissions, the Tribunal proposed two options for modifying the Procedural Calendar and requested the Parties to confer with a view to reaching an agreement on one of the two options;

WHEREAS on 19 April 2021, the Parties confirmed their agreement with one of the Tribunal's proposed amendments to the Procedural Calendar, subject to the following conditions:

1. The hearing shall be scheduled to take place between 9 and 16 October 2021;
2. The Tribunal shall hold in reserve the hearing dates proposed for March 2022 (Saturday, 19 March to Saturday, 26 March 2022); and
3. Having consulted with the Parties, the Tribunal shall decide by 13 August 2021 whether the hearing shall proceed in October 2021.

WHEREAS on 21 April 2021, the Tribunal issued Procedural Order No. 7 confirming the Parties' agreement;

WHEREAS on 9 August 2021, the Respondent requested *inter alia* that the Tribunal:

1. Release the hearing dates in October 2021 due to ongoing COVID-related health concerns and travel restrictions;
2. Order that the hearing shall proceed during the dates currently held in reserve, i.e., 19 to 26 March 2022, subject to reconsideration in light of COVID-related health concerns and travel restrictions that may then exist;
3. Order the parties to confer and try to reach agreement on the format and logistics of the hearing in March 2022, either in person in New York or virtually; and
4. Order the parties to revert to the Tribunal by Wednesday, 19 January 2022, either with an agreed position or their respective positions as to whether the hearing can proceed in March 2022, and in which format.

WHEREAS on the same date, the Tribunal invited the Claimants to provide any comments they may wish to make in respect of the Respondent's requests;

WHEREAS on 11 August 2021, the Claimants submitted their comments and requested that the Tribunal:

1. Release the hearing dates in October 2021;
2. Order that, consistent with the parties' prior agreement, and absent unforeseeable and insurmountable obstacles (such as a renewed world-wide COVID 19-related shutdown), the hearing will proceed from March 19 to March 26, 2022, even if it needs to take place virtually; and
3. Order that the parties confer regarding hearing logistics and report to the Tribunal by no later than February 1, 2022.

WHEREAS on 13 August 2021, the Tribunal informed the Parties of its decision regarding the hearing dates;

WHEREAS this Procedural Order records the decision of the Tribunal set out in its letter of 13 August 2021;

THE TRIBUNAL HEREBY ORDERS:

1. In light of the Parties' agreement, the October 2021 hearing dates shall be vacated. The hearing shall instead take place from 19 to 26 March 2022 in accordance with Procedural Order No. 7.
2. The Parties are invited to confer with each other regarding the hearing logistics and inform the Tribunal of the outcome of their discussions by Monday, 10 January 2022.
3. The Tribunal notes the Parties' joint preference to hold the hearing in-person in New York. In their discussions, the Parties are however asked to consider alternative hearing venues should travel to New York remain restricted in January 2022.

Place of arbitration (legal seat): Singapore



Professor Dr. Klaus Sachs
(Presiding Arbitrator)

On behalf of the Tribunal