

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Riverside Coffee, LLC

v.

Republic of Nicaragua

(ICSID Case No. ARB/21/16)

PROCEDURAL ORDER No. 1

Members of the Tribunal

Dr. Veijo Heiskanen, President of the Tribunal

Mr. Philippe Couvreur, Arbitrator

Ms. Lucy Greenwood, Arbitrator

Secretary of the Tribunal

Ms. Ana Constanza Conover Blancas

27 June 2022

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Introduction

The first session of the Tribunal was held on 22 June 2022, at 9 a.m. EDT, by video conference. The session was adjourned at 12 noon 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. Veijo Heiskanen, President of the Tribunal
Mr. Philippe Couvreur, Arbitrator
Ms. Lucy Greenwood, Arbitrator

ICSID Secretariat:

Ms. Ana Constanza Conover Blancas, Secretary of the Tribunal

On behalf of the Claimant:

Prof. Barry Appleton, Appleton & Associates International Lawyers LP
Ms. Lillian De Pena, Appleton & Associates International Lawyers LP
Carlos Jose Rondón Molina, Riverside Coffee, LLC
Melva Jo Winger de Rondón, Riverside Coffee, LLC

On behalf of the Respondent:

Ms. Analia Gonzalez, BakerHostetler
Mr. Marco Molina, BakerHostetler
Mr. Carlos Ramos-Mrosovsky, BakerHostetler
Mr. Fabian Zetina, BakerHostetler
Mr. José Moreno, Ministry of Promotion, Industry and Trade, Republic of Nicaragua
Mr. Hernaldo Chamorro, Attorney General's Office, Republic of Nicaragua

The Tribunal and the parties considered the following:

- The draft procedural order circulated by the Tribunal Secretary on 13 May 2022; and
- The parties' comments on the draft procedural order received on 17 June 2022, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

Having considered the above documents and the parties' views, the Tribunal now issues the present Order:

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Order

Pursuant to ICSID Arbitration Rules 19 and 20, this first Procedural Order sets out the procedural rules that govern this arbitration. The applicable procedural calendar will be established in a subsequent Procedural Order.

1. Applicable Arbitration Rules

Convention Article 44

1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of 10 April 2006, except to the extent modified by Section B of Chapter Ten (Investment) of the Dominican Republic-Central America Free Trade Agreement signed on 5 August 2004, which entered into force between the United States and Nicaragua on 1 April 2006 (“CAFTA-DR” or the “Treaty”), supplemented by any decision adopted by the Commission pursuant to Articles 10.22(3) and 10.23 of the Treaty.

2. Constitution of the Tribunal and Tribunal Members’ Declarations

Arbitration Rule 6

2.1. The Tribunal was constituted on 6 May 2022 in accordance with the ICSID Convention and the ICSID Arbitration Rules. The parties confirmed that the Tribunal was properly constituted and that no party has any objection to the appointment of any Member of the Tribunal.

2.2. The Members of the Tribunal timely submitted their signed declarations in accordance with ICSID Arbitration Rule 6(2). Copies of these declarations were distributed to the parties by the ICSID Secretariat on 6 May 2022.

2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case.

3. Fees and Expenses of Tribunal Members

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

3.1. The fees and expenses of each Tribunal Member shall be determined and paid in accordance with the ICSID Schedule of Fees and the Memorandum on Fees and Expenses of ICSID Arbitrators in force at the time the fees and expenses are incurred.

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- 3.2. Under the current Schedule of Fees, each Tribunal Member receives:
 - 3.2.1. US\$375 (three hundred seventy-five United States dollars) per hour of work performed in connection with the proceedings; and
 - 3.2.2. subsistence allowances, reimbursement of travel, and other expenses pursuant to ICSID Administrative and Financial Regulation 14.
 - 3.3. Each Tribunal Member shall submit his/her detailed claims for fees and expenses to the ICSID Secretariat on a quarterly basis or more frequently.
 - 3.4. Non-refundable expenses incurred due to postponement or cancellation of a 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, 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 and issue all rulings, including the award, within a reasonable time. If a ruling has not been issued within three months after the final submission on a particular matter, the Tribunal will provide the parties with status updates every two months.
 - 5.4. The President is authorized to sign 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 by letter or email.

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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 President may fix and extend time limits for the completion of the various steps in the proceeding.

6.2. In exercising this power, the President shall consult with the other Members of the Tribunal. If the matter is urgent, the President may fix or extend time limits without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal
Administrative and Financial Regulation 25

7.1. The Tribunal Secretary is Ms. Ana Constanza Conover Blancas, 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. Ana Constanza Conover Blancas
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
USA
Tel.: + 1 (202) 473 9042
Fax: + 1 (202) 522-2615
Email: aconover@worldbank.org
Paralegal email: aclavijoherrera@worldbank.org

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

Ms. Ana Constanza Conover Blancas
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036
U.S.A.
Tel.: +1 (202) 458-1534

8. Representation of the Parties
Arbitration Rule 18

8.1. Each party shall be represented by its counsel (below) and may designate additional agents, counsel, or advocates by notifying the Tribunal and the Tribunal Secretary promptly of such designation.

For Claimant

Barry Appleton
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Lawyers LP
121 Richmond St W, Suite 602
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For Respondent

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Ms. Analia Gonzalez
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cramosmrosofsky@bakerlaw.com

9. Apportionment of Costs and Advance Payments to ICSID
Convention Article 61(2); Administrative and Financial Regulation 14; Arbitration Rule 28

- 9.1. The parties shall cover the direct costs of the proceeding in equal parts, without prejudice to the final decision of the Tribunal as to the allocation of costs.
- 9.2. By letter of 9 May 2022, ICSID requested that each party pay US\$150,000.00 (one hundred fifty thousand United States dollars) to cover the initial costs of the proceeding. ICSID received the Claimant's payment on 6 June 2022 and the Respondent's payment on 8 June 2022.
- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

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10. Place of Proceeding

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

- 10.1. Washington D.C. shall be the place of the proceeding.
- 10.2. The Tribunal may hold in-person hearings at any other place that it considers appropriate if the parties so agree.
- 10.3. The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

11. Procedural Languages, Translation and Interpretation

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

- 11.1. English and Spanish are the procedural languages of the arbitration.
- 11.2. Routine, administrative, or procedural correspondence addressed to or sent by the ICSID Secretariat may be in either procedural language.

For Parties' Pleadings

- 11.3. Any written requests or applications shall be submitted in either procedural language, provided that, if the request or application is in Spanish, a translation into English is submitted within 2 business days thereafter.
- 11.4. Pleadings, expert opinions and witness statements may be submitted in either procedural language, provided that, if they are in Spanish, a translation into English is submitted within 5 business days. Any other accompanying documentation shall be submitted in either procedural language and its translation to the other procedural language is optional unless ordered by the Tribunal.
- 11.5. If a document is lengthy and relevant only in part, it is sufficient to translate only relevant parts, provided that the Tribunal may require a fuller or a complete translation at the request of any party or on its own initiative.
- 11.6. Translations need not be certified unless there is a dispute as to the translation provided and the Tribunal orders a certified version.
- 11.7. Documents exchanged between the parties under §15 below (Production of Documents) may be produced in the original language and need not be translated.

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For Hearings

- 11.8. The Hearing shall be conducted in English and Spanish with simultaneous interpretation into the other procedural language. Transcripts shall be taken in both languages.
- 11.9. The testimony of a witness called for examination during the hearing who prefers to give evidence in a language other than English or Spanish shall be interpreted, simultaneously if possible.
- 11.10. The parties will notify the Tribunal, as soon as possible, and no later than at the pre-hearing conference (see §19 below), which witnesses or experts require interpretation.
- 11.11. The costs of interpretation will be paid from the advance payments made by the parties, without prejudice to the decision of the Tribunal as to which party shall ultimately bear those costs.

For Tribunal's Documents Except the Award

- 11.12. The Tribunal may initially make any procedural order or decision in one procedural language, and subsequently issue that order or decision in the other procedural language. Both language versions shall be equally authentic.

For Tribunal's Award

- 11.13. The Tribunal shall render the Award in English and Spanish simultaneously. Both language versions shall be equally authentic.

12. Routing of Communications

Administrative and Financial Regulation 24

- 12.1. Written communications in the case shall be transmitted by email or other electronic means to the parties, the Tribunal Secretary and the Tribunal.
- 12.2. 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 and the Tribunal.

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

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

Dr. Veijo Heiskanen
vheiskanen@lalive.law

Mr. Philippe Couvreur
ph.couvreur@icj-cij.org

Ms. Lucy Greenwood
lucy.greenwood@greenwoodarbitration.com

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

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

13.1. By the relevant filing date, the parties shall submit by email to the Tribunal Secretary and the opposing party an electronic version of the pleading with witness statements, expert reports and an index of all supporting documentation attached to the pleading;¹ and

13.2. By the next business day, the parties shall upload the pleading with all the supporting documentation (including exhibits and legal authorities) and updated index to the file sharing platform that will be created by ICSID for purposes of this case. The index shall indicate the document number, and the language of the document. Please follow the naming conventions contained in **Annex A**.

For the avoidance of doubt, the electronic filing process indicated in this subparagraph is applicable both to the original language submission and to any subsequent translations.

13.3. The pleadings, the witness statements, the expert reports, the exhibits, and the legal authorities shall be submitted in electronic format only, unless a hard copy is specifically requested by the Tribunal.

13.4. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word).

13.5. The Tribunal may request the Secretariat to send the Tribunal and the parties 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.

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

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

Dr. Veijo Heiskanen	Mr. Philippe Couvreur	Ms. Lucy Greenwood
LALIVE	Frankenslag 336	Greenwood Arbitration Ltd.
35 rue de la Mairie	NL – 2582JA Den Haag	Ladywell Lakes, The Dean
P.O. Box 6569	The Netherlands	Alresford, SO24 9BD
1211 Geneva 6		United Kingdom
Switzerland		

13.7. 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.

13.8. A filing shall be deemed timely if sent by a party by 11:59 PM, Washington, D.C. time, on the relevant date.

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

14.1. The number and sequence of pleadings will be established in a subsequent Procedural Order.

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

15.1. The 2010 IBA Rules on the Taking of Evidence in International Arbitration (the “**IBA Rules**”) may guide the Tribunal and the parties in respect of requests for document production in this case. Requests for document production shall be presented in the form of a “Stern” schedule, in accordance with the template included as **Annex B** *infra*.

15.2. The parties agree that, before applying to the Tribunal for any order calling for the production of documents, they should make reasonable efforts to reach agreement as to the scope of production.

15.3. By the date provided in the procedural timetable to be established in a subsequent Procedural Order, unless otherwise ordered by the Tribunal, each party may serve a request for production of documents on the other party in the form of a Stern Schedule (in both Word and PDF formats). Such a request shall precisely identify each document, or category of documents, sought, specifying why the documents sought are relevant to the case and material to its outcome. The parties’ requests shall not be copied to the Tribunal or the Tribunal Secretary.

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- 15.4. Where a party objects to the production of documents otherwise responsive to a request for production on the basis of a legal privilege, the objecting party shall (i) make the claim expressly and (ii) describe the nature of the documents or categories of documents not produced in a manner that, without revealing information itself privileged or protected, will enable the requesting party and the Tribunal to assess whether such a claim of privilege is justified. This information shall be provided in the Stern schedule and a separate privilege log is not required at this stage of document production (although may, in the discretion of the Tribunal, be ordered at a later stage).
 - 15.5. With respect to each request for documents, by the date set forth in the procedural timetable to be established in a subsequent Procedural Order, unless otherwise ordered by the Tribunal, each party shall either (i) provide the other party with the documents in its possession, custody or control that are responsive to the request, or (ii) set forth its objections to the request in the schedule provided by the requesting party.
 - 15.6. By the date set forth in the procedural timetable to be established in a subsequent Procedural Order, unless otherwise ordered by the Tribunal, the requesting party shall reply to the other party's objections in the same schedule and file the schedule (in both Word and PDF formats) with the Tribunal, copying the other party.
 - 15.7. The Tribunal shall make its best efforts to resolve any disputed request for the production of documents expeditiously and may, at its discretion, arrange case management conferences for this purpose.
 - 15.8. Further requests for the production of the documents sought by either party, if any, shall be permitted only at the discretion of the Tribunal, on terms as ordered by the Tribunal, and after the other party has had an opportunity to be heard.
 - 15.9. Documents produced pursuant to a Request for the Production of Documents voluntarily or pursuant to an order from the Tribunal shall be exchanged between the parties only and shall only form part of the record when they are formally submitted as evidence in these proceedings, or as otherwise directed by the Tribunal.
16. Submission of Documents
Convention Article 44; Administrative and Financial Regulation 30; Arbitration Rule 24
- 16.1. The Memorial and Counter-Memorial shall be accompanied by the documentary evidence relied upon by the parties, including exhibits and legal authorities. Further documentary evidence relied upon by the parties in rebuttal shall be submitted with the Reply and Rejoinder.

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- 16.2. The documents shall be submitted in the manner and form set forth in §13 above.
- 16.3. Neither party shall be permitted to submit additional or responsive documents after the filing of its respective last written submission, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other party.
- 16.3.1. Should a party request leave to file additional or responsive documents, that party may not annex the documents that it seeks to file to its request.
- 16.3.2. If the Tribunal grants such an application for submission of an additional or responsive document, the Tribunal shall ensure that the other party is afforded sufficient opportunity to make its observations concerning such a document.
- 16.4. The Tribunal may call upon the parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 34(2).
- 16.5. The documents shall be submitted in the following form:
- 16.5.1. The number of each exhibit containing a document produced by the Claimant shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities. The number for each exhibit containing a document produced by the Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities.
- 16.5.2. Lengthy exhibits shall include a means of identifying pages, by internal page numbering or otherwise.
- 16.5.3. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-0001” and “R-0001,” and “CL-001” and “RL-001” respectively. If the exhibit is submitted in only one language, it shall have the suffix “ENG” or “SPA” depending upon whether that language is English or Spanish, respectively. If the exhibit is submitted in both English and Spanish, it shall have the suffix of its original language first followed by the suffix of the translated language (*e.g.*, C-0002 SPA/ENG). The number of the exhibit or legal authority shall appear on the first page of the document.
- 16.5.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 16.6. The parties shall number the paragraphs of their written pleadings consecutively.

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- 16.7. Copies of documentary evidence shall be assumed to be authentic unless specifically objected to by a party, in which case the Tribunal will determine whether authentication is necessary.
 - 16.8. The parties shall file all documents only once by submitting them with their pleadings. Documents need not be resubmitted with subsequent pleadings, witness statements, or expert reports, even if referred to in such statements.
 - 16.9. 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 conference.
17. Witness Statements and Expert Reports
Convention Article 43(a); Arbitration Rule 24
- 17.1. Witness statements and expert reports shall be filed together with the parties' pleadings.
 - 17.2. Neither party shall be permitted to submit any testimony that has not been filed with the written pleadings, 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 §16.3).
 - 17.3. Each witness statement and expert report shall contain numbered paragraphs and be signed and dated by the witness.
 - 17.4. Personal privacy data shall be minimized where possible in witness and expert statements. Birthdates, passport numbers, tax identification numbers and personal identification numbers shall not be necessary unless specifically ordered by the Tribunal.
18. Examination of Witnesses and Experts
Arbitration Rules 35 and 36
- 18.1. On the date set forth in the procedural timetable to be established in a subsequent Procedural Order, each Party shall notify to the Tribunal and the other Party the factual or expert witnesses (including experts) it wishes to call for cross-

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examination, as well as any factual or expert witnesses for which it waives cross-examination. If a Party waives cross-examination for a factual or expert witness, the witness's statement shall stand as the witness's direct examination, and the factual or expert witness need not be called by the Party that offered it, unless the Tribunal determines that there is good cause to call such factual or expert witness for examination at the hearing based on a reasoned written request followed by observations from the other party. Waiver of cross-examination of a factual or expert witness does not mean the witness's statement is conceded, and the Party waiving cross-examination may still challenge the witness's statement in its remaining oral and written submissions.

- 18.2. If a factual or expert witness fails to appear when first summoned to a hearing, the Tribunal may in its discretion determine the weight, if any, to give his or her witness statement. The Tribunal shall not consider the witness statement of a factual or expert witness who fails to appear without a valid reason. If warranted by extraordinary circumstances, the Tribunal may authorize an alternative method of cross-examining a factual or expert witness, such as by live video-link.
- 18.3. Subject to a different agreement by the Parties or a different ruling by the Tribunal, a fact witness shall not be present in the hearing room during oral testimony and arguments or read the transcript of any oral testimony or argument prior to his or her examination. However, expert witnesses and a party representative for each party may be present in the hearing room at any time, although any party representative who is also a witness must give evidence first.
- 18.4. The written witness statement or expert report of each factual or expert witness called for cross-examination shall stand in lieu of the examination by the party producing the witness ("direct examination"). However, the party who presents the factual or expert witness may conduct a brief direct examination for a length to be agreed at the pre-hearing conference for purposes of asking introductory questions, including to confirm the accuracy and completeness of that factual or expert witness's written testimony, to offer any background or clarifications that may be necessary to prevent a potentially avoidable misunderstanding of that witness's written testimony and to briefly summarize the positions set out in the witness statement(s).
- 18.5. If during the direct examination of factual or expert witnesses the parties wish to address facts or evidence of which the witness or expert became aware after the filing of their last respective statement or report, the relevant party shall so inform the Tribunal and the other party, at the latest, at the pre-hearing conference. The Tribunal will determine, after hearing the parties, whether a party shall be allocated additional time for direct examination at the hearing for such purpose.

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- 18.6. The adverse party may then cross-examine the factual or expert witness within the scope of that factual or expert witness's statement or report, or his or her testimony. The party who has presented the factual or expert witness may then conduct re-direct examination. Re-direct examination shall be limited to the subjects properly raised by the questions asked during the cross-examination.
- 18.7. The Tribunal may examine factual and expert witnesses at any time during a hearing.
- 18.8. The rules set forth below apply exclusively to expert witnesses:
- 18.8.1. An expert witness may give a presentation summarizing their methodology and conclusions in lieu of or in addition to direct examination.
- 18.8.2. Subject to the Tribunal's approval, the Parties may agree to examine experts of similar discipline, if any, by way of expert conferencing.
- 18.8.3. Further decisions about the modalities of expert testimony shall be decided at the pre-hearing conference.
19. Pre-Hearing Conference
Arbitration Rule 13
- 19.1. A pre-hearing conference shall be held on an appropriate date determined by the Tribunal after consultation with the parties before the relevant hearing. It shall comprise a teleconference or videoconference between the Tribunal, or its President, and the parties and should resolve any outstanding procedural, administrative, and logistical matters in preparation for the hearing.
- 19.2. 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.
20. Hearings
Arbitration Rules 20(1)(e) and 32
- 20.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.

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- 20.2. The hearing may be held in-person or by any other means of communication as determined by the Tribunal after consultation with the parties. An in-person hearing shall be held at a place to be determined in accordance with §10 above.
 - 20.3. Having due regard to the specific circumstances of the case, including any relevant travel restrictions and/or social distancing measures, the Tribunal may, after consulting with the Parties, decide to hold a hearing remotely or in a hybrid form.
 - 20.4. The date of the hearing shall be determined at a later stage.
 - 20.5. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
 - 20.6. In accordance with Article 10.21(2) of the CAFTA-DR, hearings shall be open to the public. The Tribunal shall determine, in consultation with the parties, the appropriate logistical arrangements. Any party that intends to use information designated as protected information in a hearing shall so advise the Tribunal. The Tribunal shall make appropriate arrangements to protect the information from disclosure.
 - 20.7. Allocation of time at the hearing(s) shall be agreed upon by the Parties or, alternatively, decided by the Tribunal in consultation with the Parties at the pre-hearing conference.
 - 20.7.1. In principle, the Parties shall be allocated equal time at any hearings to use as they consider appropriate. The amount of time allocated to each Party shall be determined at the relevant pre-hearing conference.
 - 20.7.2. Each Party shall be entitled to use its allotted time at the hearing as it desires, except that the Parties will be afforded equal time for opening and (if necessary) closing statements (with the Tribunal to determine the length of such statements if the Parties are unable to agree). The Parties may present opening statements prior to the examination of witnesses and experts at the hearing. The submission of oral closing statements and other specifics regarding the hearing schedule will be discussed with the Parties during the pre-hearing conference.
21. Records of Hearings and Sessions
Arbitration Rules 13 and 20(1)(g)
- 21.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the parties and the Tribunal Members.

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- 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, if possible, be available in real-time 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 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the parties in the transcripts (“revised transcripts”). The Tribunal shall decide upon any disagreement between the parties and any correction adopted by the Tribunal shall be entered by the court reporter in the revised transcripts.
22. Post-Hearing Memorials and Statements of Costs
Convention Article 44; Arbitration Rule 28(2)
- 22.1. The schedule of Post-Hearing Submissions and Statements of Costs shall be decided by the Tribunal, after consulting with the Parties at a later stage.
23. Publication
Convention Article 48(5), Administrative and Financial Regulation 22, Arbitration Rule 48(4); Treaty Article 10.21
- 23.1. In accordance with Article 10.21 of the CAFTA-DR, the following documents shall be publicly available, subject to the deletion of protected information:² (a) the notice of intent; (b) the notice of arbitration; (c) pleadings, memorials and briefs submitted to the Tribunal by either party and any written submissions submitted pursuant to Article 10.20.2 (submissions by a non-disputing party regarding the interpretation of the Treaty) and 10.20.3 (*amicus curiae* submissions from a person or entity that is not a disputing party) and Article 10.25 (Consolidation); (d) minutes or transcripts of hearings of the Tribunal, where available; and (e) orders, awards and decisions of the Tribunal.
- 23.2. Any protected information that is submitted to the Tribunal shall be protected from disclosure in accordance with the procedures set out in Article 10.21(4) of the CAFTA-DR.

² Pursuant to Article 10.28 of the Treaty, the term “protected information” means “confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law”.

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24. Data Privacy

- 24.1. The Members of the Tribunal, the parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this arbitration proceeding.
- 24.2. The Members of the Tribunal, the parties and their representatives agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in the arbitration proceeding, where necessary. Should compliance with applicable law require action from another participant in the arbitration proceeding, the parties are invited to bring that to the attention of that other participant and/or to apply to the Tribunal for specific data protection measures to be put in place.

25. Submissions by Non-Disputing Parties and *Amicus Curiae*
Arbitration Rule 37(2); Treaty Article 10.20

- 25.1. Pursuant to Article 10.20(2) of the Treaty, a non-disputing Party may make oral and written submissions to the Tribunal regarding the interpretation of the CAFTA-DR.
- 25.2. In accordance with ICSID Arbitration Rule 37(2) and Article 10.20(3) of the Treaty, the Tribunal shall have the authority to accept and consider *amicus curiae* submissions from a person or entity that is not a disputing party, subject to the admissibility standard set forth in ICSID Arbitration Rule 37(2).

26. Third Party Funding

- 26.1. If either party has received funds for the pursuit or defense of the proceeding through a donation or grant, or in return for remuneration dependent on the outcome of the proceeding (“third-party funding”), such party shall notify the Tribunal and the Secretary General promptly, disclosing the name and address of any non-party from which the party, directly or indirectly, receives third-party funding.

On behalf of the Tribunal,

[Signed]

Dr. Veijo Heiskanen
President of the Tribunal
Date: 27 June 2022

Procedural Order No. 1 – Annex A

ANNEX A

Electronic File Naming Guidelines

Please follow these guidelines when naming electronic files and for the accompanying Consolidated Hyperlinked Index. The examples provided (in *italics*) are for demonstration purposes only and should be adapted to the relevant phase of the case.

All pleadings and accompanying documentation shall indicate the LANGUAGE in which they are submitted (e.g. SPA=Spanish; FR=French; ENG= English). Such indication should be reflected both i) in the name used to identify each individual electronic file and ii) in the Consolidated Hyperlinked Index (which shall be attached to each submission).

For cases with a single procedural language, the “LANGUAGE” designation may be omitted, except for documents in a language other than the procedural language and the corresponding translations.

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
MAIN PLEADINGS	Title of Pleading–LANGUAGE
	<i>Memorial on Jurisdiction-FR</i>
	<i>Counter-Memorial on the Merits and Memorial on Jurisdiction-SPA</i>
	<i>Reply on Annulment-FR</i>
	<i>Rejoinder on Quantum-ENG</i>
SUPPORTING DOCUMENTATION Exhibits	C-####–LANGUAGE
	R-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S FACTUAL EXHIBITS
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	RESPONDENT’S FACTUAL EXHIBITS
	<i>R-0001-FR</i>
	<i>R-0002-SPA</i>
	Legal Authorities
RL-####–LANGUAGE	
To be produced sequentially throughout the case.	
CLAIMANT’S LEGAL AUTHORITIES	
<i>CL-0001-ENG</i>	
<i>CL-0002-FR</i>	
RESPONDENT’S LEGAL AUTHORITIES	
<i>RL-0001-SPA</i>	

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	<i>RL-0002-ENG</i>
Witness Statements	Witness Statement-Name of Witness-Name of Submission-LANGUAGE
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</i>
	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
Expert Reports	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE
	<i>Expert Report-Lucia Smith-Valuation-Memorial on Quantum-ENG</i>
	<i>Expert Report-Lucia Smith-Valuation-Reply on Quantum-[Second Report]-ENG</i>
Legal Opinions	Legal Opinion-Name of Expert-Name of Submission-LANGUAGE
	<i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits-FR</i>
	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]-FR</i>
Exhibits to Witness 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-C-#### to C-####
	<i>Index of Exhibits-C-0001 to C-0023</i>
	Index of Legal Authorities-RLA-### to RLA-###
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
OTHER APPLICATIONS	Name of Application-[Party]-LANGUAGE
	<i>Preliminary Objections under Rule 41(5)-SPA</i>
	<i>Request for Bifurcation-ENG</i>
	<i>Request for Provisional Measures-[Respondent]-SPA</i>
	<i>Request for Production of Documents-[Claimant]-SPA</i>
	<i>Request for Stay of Enforcement-FR</i>
	<i>Request for Discontinuance-[Claimant]-ENG</i>
	<i>Post-Hearing Brief-[Claimant]-SPA</i>
	<i>Costs Submissions-[Respondent]-ENG</i>
<i>Observations to Request for [XX]-[Claimant]-SPA</i>	

Procedural Order No. 1 – Annex B

ANNEX B

Model – “Stern” Document Request Schedule

Document Request No:	
A. Documents or category of documents requested (Requesting party)	
B. Relevance and materiality, including references to submissions (Requesting party)	
C. Objections to document request (Objecting party)	
D. Response to objections (Requesting party)	
E. Tribunal Decision	