

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

**Lotus Proje Akaryakıt Enerji Madencilik Telekomünikasyon İnşaat
Sanayi Taah. Ve Tic. A.Ş.**

v.

Turkmenistan

(ICSID Case No. ARB/24/13)

PROCEDURAL ORDER NO. 8

Members of the Tribunal

Ms. Meg Kinnear, President of the Tribunal

Ms. Lucy Greenwood, Arbitrator

Mr. John M. Townsend, Arbitrator

Secretary of the Tribunal

Mr. Govert Coppens

October 27, 2025

I. RESOLUTION OF THE ORDER FOR SECURITY FOR COSTS

1. The factual background to this Order is recited in Procedural Orders No. 3 to 7. In summary, the Tribunal granted the Respondent's Request for Security for Costs ("SFC") in its Procedural Order No. 3 dated April 28, 2025, ordering the Claimant to post a USD 2 million security for costs in favour of the Respondent.
2. The Claimant elected to post the SFC through an "After the Event" ("ATE") insurance policy. The Claimant was ordered to revert to the Tribunal within 30 days after Procedural Order No. 3 "providing sufficient details concerning the security to be obtained and the provider of such security". Once the SFC was approved by the Tribunal, the Claimant had 30 days to put the SFC in place.¹
3. The Claimant was given an extension of time, to June 30, 2025, to revert to the Tribunal with details concerning the SFC it had secured.²
4. The Claimant was subsequently given a one-month extension of time to file its Memorial (to July 28, 2025) and the Respondent was given an extension of time to file its Counter-Memorial on the Merits and Memorial on Jurisdiction (to January 5, 2026).³ Procedural Order No. 6 dated July 6, 2025 gave the Respondent a further extension of time to file its Counter-Memorial on the Merits and Memorial on Jurisdiction (by January 12, 2026), and allowed the Claimant to file its update on SFC by July 5, 2025.⁴
5. Between July 5 and September 18, 2025, the Parties exchanged information and questions about the proposed ATE.⁵ By this point, it was evident that the Parties had very different

¹ Procedural Order No. 3, April 28, 2025, para. 86.

² Procedural Order No. 4, June 2, 2025, para. 6.

³ Procedural Order No. 5, June 18, 2025, para. 14.

⁴ Procedural Order No. 6, July 2, 2025, para. 4 and Annex B.

⁵ See Procedural Order No. 7, September 29, 2025, paras. 6-15.

understandings of the ATE policy and that the Tribunal was in no position to approve or disapprove of the policy.⁶

6. The Tribunal convened a hearing on September 26, 2025 to clarify the relevant facts. In the result, the Claimant was ordered to provide a “clear, updated and complete Neova-Lotus insurance policy by October 15, 2025” addressing all outstanding matters, the Respondent was given until October 24, 2025 to make final comments on the updated policy, and the Tribunal was to revert to the Parties promptly thereafter on whether it could approve the new version of the policy.⁷
7. The Tribunal has reviewed the Neova-Lotus ATE policy provided by the Claimant on October 15, 2025 and the Respondent’s comments on that policy. The Tribunal now has sufficient information, and it approves of the ATE policy as proposed by the Claimant in its October 15 correspondence. As a result, the Claimant has 30 days from the date of this order (i.e., **until November 26, 2025**) to put the ATE policy into effect. The Claimant should advise the Respondent and the Tribunal when this has been completed.
8. The Respondent agrees that the Tribunal should accept the Claimant’s proposed ATE policy subject to several minor clarifications.⁸ It urges the Tribunal to order that the policy:
 - a. Incorporate the ICSID Arbitration Rule 50 definition of “costs” in the proceeding;
 - b. Change “or” in clause 5 to “and/or”;
 - c. Expressly authorize the Respondent to notify Neova directly, if and when the Tribunal issues a costs award; and
 - d. Add language in paragraph 10 of the anti-avoidance endorsement (“AAE”) that clause 5 of the policy is also applicable to all claims in connection with the AAE,

⁶ Procedural Order No. 7, September 29, 2025, para. 24.

⁷ Procedural Order No. 7, September 29, 2025, paras. 21-22.

⁸ Letter from the Respondent to the Tribunal, October 24, 2025, pp. 2-3.

including claims under the Third Parties (Rights Against Insurers) Act, for the avoidance of doubt.

9. In the Tribunal’s view, these changes proposed by the Respondent are helpful but not necessary to make the Policy effective or to enable the Tribunal to approve the Policy. As a result, the issuer of the Policy may adopt these suggestions if it wishes to do so, but the changes are not required for the Tribunal to approve the Policy.

II. RESPONDENT’S REQUEST FOR RULING ON SUBMISSION OF FURTHER EVIDENCE

10. The Respondent’s letter of October 24, 2025 also includes a request for an order on the submission of evidence in the proceeding. Specifically, the Respondent notes that the Claimant’s Memorial expressly admits that the Claimant does not have all the documents it had expected to rely on, and in particular that it is missing documents accessible through an SAP system for which Lotus Energi had not made payments.⁹
11. The Claimant’s Memorial asserts that the Claimant hopes to be in a position to submit a more detailed factual submission after gaining access to those documents.¹⁰
12. The Respondent expresses its concern that the Claimant would seek to rely on such documents in the Reply, contrary to the requirement that such documents be “in rebuttal” only.¹¹ According to the Respondent, the Claimant should have recovered such documents well before the current proceedings, and its failure to do so would prejudice the disclosure process and overall due process for the Respondent.
13. The Tribunal understands the concern raised by the Respondent. However, the Tribunal is unable to make such a pre-emptory order at this stage, without knowledge of the particular

⁹ Letter from the Respondent to the Tribunal, October 24, 2025, pp. 2-4.

¹⁰ Letter from the Respondent to the Tribunal, October 24, 2025, p. 2, citing Claimant’s Memorial, July 28, 2025, para. 4.

¹¹ Letter from the Respondent to the Tribunal, October 24, 2025, pp. 3-4, referring to Procedural Order No. 1, February 27, 2025, para. 16.1; ICSID Arbitration Rules 2022, Rule 30(2).

documents sought to be relied upon by the Claimant in a Reply pleading and the specific context in which this might occur. The Claimant is invited to clarify its position as to these documents by November 7, 2025. The Respondent is of course entitled to raise these concerns again, if they persist, as the arbitration proceeds, but at this point a ruling on this issue would be speculative and premature.

III. PROCEDURAL CALENDAR AND SCHEDULED CASE MANAGEMENT CONFERENCE

14. The Respondent has advised that it will file its Counter-Memorial on the Merits and Memorial on Jurisdiction on January 12, 2026, and that it does not require any alteration of the current procedural timetable.
15. As a result, the case management conference (“**CMC**”) that was scheduled for October 31, 2025 is now unnecessary, as it was intended to address any revision to the filing schedule that might have been needed due to the length of time it has taken to settle the SFC question. The Tribunal would propose to cancel this CMC unless either Party advises the Tribunal by October 29, 2025 that it would like to maintain the date and address matters other than scheduling. If so, either Party should advise the Tribunal Secretary that it wishes to maintain the CMC and the agenda item it would like to address.

IV. DECISION

16. For the foregoing reasons, the Tribunal orders as follows:
 - a. The Tribunal approves the proposed Neova-Lotus ATE policy and orders the Claimant to put it into effect within 30 days of this Order;
 - b. The Tribunal declines to make an order at this time with respect to whether the Claimant will use documentary evidence in the Reply which is not properly relied upon in a rebuttal pleading;

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- c. The Respondent will file its Counter-Memorial on the Merits and Memorial on Jurisdiction on January 12, 2026, as previously scheduled; and
- d. The CMC scheduled for October 31, 2025 will be cancelled unless either Party notifies the Tribunal by October 29, 2025 that it wishes to proceed with a CMC on a topic other than scheduling.

On behalf of the Tribunal,

[signed]

Ms. Meg Kinnear
President of the Tribunal
Date: October 27, 2025