

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Naftiran Intertrade Co. (NICO) Limited
(Claimant)

v.

Kingdom of Bahrain
(Respondent)

(ICSID Case No. ARB/22/34)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Dr. Claus von Wobeser, President of the Tribunal
Prof. Bernard Hanotiau, Arbitrator
Prof. Maxi Scherer, Arbitrator

Secretary of the Tribunal

Ms. Anna Holloway

May 7, 2024

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Introduction

The first session of the Tribunal was held on March 20, 2024, at 9:00 a.m. EST, by video conference via Zoom. The session was adjourned at 9.55am.

A 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. Claus von Wobeser, President of the Tribunal
Prof. Bernard Hanotiau, Arbitrator
Prof. Maxi Scherer, Arbitrator

ICSID Secretariat:

Ms. Anna Holloway, Secretary of the Tribunal
Ms. Ekaterina Minina, Paralegal

On behalf of the Claimant:

Dr. Hamid Gharavi, Derains & Gharavi
Mr. Emmanuel Foy, Derains & Gharavi
Ms. Déborah Schneider, Derains & Gharavi
Ms. Akosua Asirifi, Derains & Gharavi
Mr. David Jisu Lee, Derains & Gharavi
Mr. Saeed Alikhani, NICO
Mr. Henry Takyi, NICO

On behalf of the Respondent:

Mr. Mark Levy KC, Allen & Overy LLP
Mr. David Herlihy, Allen & Overy LLP
Ms. Katrina Limond, Allen & Overy LLP
Ms. Aashna Agarwal, Allen & Overy LLP
Mr. Andrew Hashim, Allen & Overy LLP
H.E Ambassador Mohamed Alhaidan, Chief of Legal Affairs Sector (Ministry of Foreign Affairs)
Ms. Ameena Bin Dayna, Second Secretary – Legal Affairs Sector (Ministry of Foreign Affairs)
Mr. Ahmed Khafagy, Legal Counselor – Legal Affairs Sector (Ministry of Foreign Affairs)
Mr. Mahmoud Elkharashy, Legal Counselor – Legal Affairs Sector (Ministry of Foreign Affairs)
Mr. Devashish Krishan, Legal Advisor, Kingdom of Bahrain

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The Tribunal and the parties considered the following:

- The Draft Procedural Orders No. 1 and No. 2 circulated by the Tribunal Secretary on March 5, 2024; and
- The parties' comments on the Draft Procedural Orders received on March 18, 2024, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

On April 2, 2024, the Tribunal circulated revised drafts of Procedural Orders Nos. 1 and 2 (including an updated proposed procedural calendar), inviting parties' comments on the procedural calendar by April 5, 2024 (subsequently extended to April 8, 2024).

On April 8, 2024, each party confirmed that they had no comments on the revised Procedural Orders Nos. 1 and 2, but made comments regarding the procedural calendar/hearing dates.

With the leave of the Tribunal, each party submitted comments on the other party's April 8, 2024 communications, and the Respondent submitted further comments on April 17, 2024.

On April 30, 2024, the Tribunal circulated a further revised procedural calendar, and set forth its decisions in relation to the various points raised in the parties' communications of April 8, 12, and 17, 2024. In its communication, the Tribunal indicated alternative availabilities for a Hearing in one of the scenarios, and invited the parties to confer and respond regarding possible changes to the calendar for this scenario by May 14, 2024. The Tribunal considered that "[f]or the avoidance of doubt, the Scenario 1 deadlines as set forth in the attached procedural calendar are to be considered running."

Having considered the above documents and the parties' views, the Tribunal now issues the present Order, electing not to await the finalization of the procedural calendar:

Order

Pursuant to ICSID Arbitration Rules 27 and 29, this Procedural Order sets out the Procedural Rules that govern this arbitration. The procedural calendar will be memorialized in a subsequent procedural order.

1. Applicable Arbitration Rules

Convention Article 44; Arbitration Rule 1

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of July 1, 2022.

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 21

- 2.1. The Tribunal was constituted on January 30, 2024 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 19(3)(b). Copies of these declarations were distributed to the parties by the ICSID Secretariat upon acceptance of each arbitrator's appointment on March 23, 2023, April 12, 2023, and January 30, 2024.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case and that they will use best efforts to meet all time limits for orders, decisions and the Award, in accordance with ICSID Arbitration Rule 12(1).

3. Fees and Expenses of Tribunal Members

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

- 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 in force at the time the fees and expenses are incurred.

4. Presence and Quorum

Arbitration Rule 33

- 4.1. The participation of all of the members of the Tribunal by any appropriate means of communications is required at the first session, case management conferences, hearings and deliberations, except as otherwise provided in the Arbitration Rules or unless the parties agree otherwise.

5. Rulings of the Tribunal

Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35

- 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 5.2. Orders, decisions and the Award may be made by any appropriate means of communication.

- 5.3. Orders, decisions and the Award may be signed electronically.
- 5.4. The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.
- 5.5. When 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.
- 5.6. The Tribunal's orders and decisions shall indicate the reasons upon which they are made. The reasons may be minimal for non-controversial or minor procedural, administrative and organizational matters, e.g., extensions of time.
- 5.7. The Tribunal will use best efforts to issue all rulings, including the Award, within the time limits prescribed by the ICSID Arbitration Rules and/or those denoted in the procedural calendar. If the Tribunal cannot comply with an applicable time limit in either the ICSID Arbitration Rules or those denoted in the procedural calendar, it will advise the parties of the special circumstances justifying the delay and the date when it anticipates rendering the ruling, in accordance with ICSID Arbitration Rule 12(2).
- 5.8. 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 Rules 10 and 11

- 6.1. The President may exercise the Tribunal's power to fix and extend time limits for the completion of each procedural step in the proceeding under Arbitration Rules 10(1) and 11(3), in accordance with Arbitration Rules 10(3) and 11(4).
- 6.2. In exercising the power to fix time limits under Arbitration Rule 10(1), the President shall consult with the parties as far as possible. If the matter is urgent, the President may fix time limits without consulting the parties, subject to possible reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal
Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Ms. Anna Holloway, Senior Legal Counsel, ICSID, or such other person as ICSID may notify the Tribunal and the parties from time to time.

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- 7.2. To send copies of communications by email, mail, and courier/parcel deliveries to the ICSID Secretariat, the contact details are:

Ms. Anna Holloway
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.
Tel.: + 1 (202) 473 7762
Fax: + 1 (202) 522-2615
Email: aholloway1@worldbank.org
Paralegal name: Ms. Ekaterina Minina
Paralegal email: eminina@worldbank.org
ICSID case address: arb/22/34@worldbank.org

(Parties should copy all three email addresses in email correspondence).

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

Ms. Anna Holloway
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 2

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

Dr. Hamid Gharavi
Mr. Emmanuel Foy

For the Respondent

H.E Ambassador Mohamed Alhaidan
Prof. Jan Paulsson

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9. Apportionment of Costs and Advance Payments to ICSID – Division of Advances
Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50

- 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. Following registration of the Request for arbitration, by letter of December 19, 2022, ICSID informed the Parties that US\$300,000 will be necessary to cover the estimated costs of the initial phase of the proceeding through the first session of the

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Tribunal, as well as the subsequent phase, and requested that the Claimant pay US\$150,000. ICSID received the Claimant's payment on January 27, 2023. Upon the constitution of the Tribunal, by letter of January 30, 2024, ICSID requested that the Respondent pay US\$150,000. ICSID received the Respondent's payment on March 19, 2024.

- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

10. Place of Proceeding and Hearings

Convention Articles 62 and 63; Arbitration Rule 32

- 10.1. Paris, France shall be the place of the proceeding.
- 10.2. The Tribunal may hold in-person hearings at any other place that it considers appropriate after consultation with the parties. The method of holding a hearing will be determined in accordance with §21.2.
- 10.3. The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

11. Procedural Language, Translation and Interpretation

Administrative and Financial Regulation 32; Arbitration Rule 7

- 11.1. English is the procedural language of the arbitration.
- 11.2. The Tribunal and the Secretariat shall communicate with the parties in English.
- 11.3. Documents filed in any other language must be accompanied by a translation into English.
- 11.3.1. It is sufficient to translate only the relevant part of a supporting document, unless the Tribunal, at the request of any party or of its own initiative, orders a party to provide a fuller or a complete translation.
- 11.3.2. Translations need not be certified, unless the translation is disputed and the Tribunal orders a party to provide a certified translation.
- 11.4. Documents in a language other than English exchanged between the parties pursuant to §15 below (Production of Documents) need not be translated.
- 11.5. The parties will notify the Tribunal which witnesses or experts require interpretation, no later than when notifying which witnesses and experts are called for examination at the hearing (see Annex B below) and as soon as possible.

- 11.6. The testimony of a witness called for examination who needs to give evidence in a language other than English shall be interpreted, simultaneously if possible.
- 11.7. 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.

12. Routing of Communications

Arbitration Rule 6

- 12.1. The ICSID Secretariat shall be the channel of written communications between the parties and the Tribunal.
- 12.2. Each party's written communications shall be transmitted by email or other electronic means to the opposing party and to the Tribunal Secretary, who shall send them to the Tribunal.
- 12.3. 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.
- 12.4. The Tribunal Secretary shall not be copied on direct communications between the parties when such communications are not intended to be transmitted to the Tribunal.

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

Arbitration Rules 4, 5 and 9

- 13.1. By the relevant filing date, the parties shall:
 - 13.1.1. 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;¹ and
 - 13.1.2. within three (3) business days of the filing date contemplated in paragraph [13.1.1] upload the pleading with all the supporting documentation and updated index to the file sharing platform that has been created by ICSID for purposes of this case.²

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

² Supporting documentation shall be uploaded as individual files, not in .zip format.

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- 13.2. Within five business days of the relevant filing date, the parties shall dispatch hardcopies of the written pleading, and accompanying witness statements and expert reports (but not the fact exhibits or legal authorities) to Prof. Hanotiau at the following address (Dr. von Wobeser and Prof. Scherer do not require hardcopies):

Prof. Bernard Hanotiau
HANOTIAU & VAN DEN BERG (HVDB)
IT Tower (9th Floor)
480 Avenue Louise · B9
1050 Brussels · Belgium
T. +32 2 290 39 00

- 13.3. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word).
- 13.4. All pleadings shall contain consecutively numbered paragraphs and shall be accompanied by a cumulative index of all the supporting documentation that the party has submitted up to the date of the pleading. The index shall indicate the document number and the pleading with which it was submitted, and shall follow the naming conventions contained in **Annex A**).
- 13.5. 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 upload to the file sharing platform, in a format that can be readily downloaded, 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.³
- 13.6. The official date of receipt of a pleading or written communication shall be the day on which the electronic file is sent to the Tribunal Secretary by email.
- 13.7. A filing shall be deemed timely if sent by a party by midnight, Washington, D.C. time, on the relevant date. If a filing falls on a Saturday or Sunday, the relevant date is the subsequent business day.

14. Number and Sequence of Pleadings – Procedural Calendar
Arbitration Rule 30

- 14.1. The number and sequence of pleadings are to be set out in the procedural calendar, which will be issued in a subsequent procedural order.

³ To ensure the full operation of the hyperlinked index, the entire folder shall be housed within one folder and then uploaded to BOX as a single zip file. Should the size of the zip file make the upload to BOX impossible, the parties shall upload the organized folder to a designated sub-folder on to the BOX filesharing platform, in a sub-folder and including a consolidated (non-hyperlinked) index.

15. Production of Documents

Convention Article 43(a); Arbitration Rules 5 and 36-40

- 15.1. The IBA Rules on the Taking of Evidence in International Arbitration 2020 will guide the Tribunal with respect to any requests for document production.
- 15.2. Requests to produce documents (if any) shall be exchanged at the stages identified in the procedural calendar.
- 15.3. Requests to produce documents or categories of documents, responses thereto and related applications to the Tribunal shall be made in the form of a Stern Schedule containing the production request, with a description of each document or a specifically and narrowly defined category of documents from specific date ranges, in one column and columns for each of the following: (a) the reasons for those requests; (b) the response to those requests; (c) the reply to the responses; and (d) the Tribunal's decision. An electronic MS Word version of the Stern Schedule is to be transmitted to the Party to whom the request is made and, when requesting the Tribunal's decision, to the Tribunal.
- 15.4. Document production requests shall include an explanation of: (i) how the documents requested are relevant, proportionate and material to the outcome of the arbitration and (ii) the issue to which issue they pertain, as well as a statement that the documents are not in the possession, custody or control of the requesting party.
- 15.5. Only documents pertaining to the stage of the proceedings at the time the request is made may be requested by the parties.
- 15.6. In the case of the failure by a party, without satisfactory explanation, to comply with an order of the Tribunal to produce a document, the Tribunal may, at the request of the other party and after giving the party that failed to produce the document an opportunity to comment on the request, draw the inferences that it deems appropriate.
- 15.7. Documents communicated by a party to the other party in response to a request or order shall not be considered to be on the record unless and until they have been submitted in the arbitration.

16. Submission of Documents

Convention Article 44; Arbitration Rule 5

- 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

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documentary evidence relied upon by the parties in rebuttal shall be submitted with the Reply and Rejoinder.

- 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 timely and reasoned written application 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 document.
- 16.4. The Tribunal may call upon the parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 36(3).
- 16.5. Documents shall be submitted in the following form:
 - 16.5.1. The number of each Exhibit containing a document produced by Claimant shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities etc. The number for each Exhibit containing a document produced by Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities etc.
 - 16.5.2. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-0001” and “R-0001,” and “CL-0001” and “RL-0001” respectively. The number of the exhibit or legal authority shall appear on the first page of the document, and shall be incorporated into the file name in accordance with §16.5.4.
 - 16.5.3. A party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.
 - 16.5.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 16.6. 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.

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- 16.7. 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.
- 16.8. The parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, etc., compiling information which is on record but not presented in such form), provided that they (i) identify the source in the record from which the information is derived, and (ii) do not contain information not in the record.
- 16.9. An electronic copy of each demonstrative exhibit, other than PowerPoint slides, shall be distributed by the party intending to use it via an electronic mail sent to the entire case email distribution for each party, the Members of the Tribunal, the Tribunal Secretary, and to the court reporter and interpreters as necessary by 6:00 pm in the time zone where the hearing is being held on the eve of the day of their use.
- 16.10. In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit (including PowerPoint slides) is used, the parties shall upload such demonstrative to the case folder in the BOX files sharing platform, designating each with the corresponding CD-__ or RD-__ number.

17. Witness Statements and Expert Reports

Convention Article 43(a); Arbitration Rule 38

- 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 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 §16.3).
- 17.3. Each witness statement and expert report shall be signed and dated by the witness.

18. Examination of Witnesses and Experts

Arbitration Rule 38

- 18.1. Each witness whose witness statement and expert whose statement or report has been submitted as set forth in §17 above shall be available for examination at the hearing, subject to the provisions of this Order.
- 18.2. On the date provided in the procedural calendar, each Party shall notify the other Party, which of such other Party's witnesses and experts it wishes to cross-examine at the hearing.

- 18.3. On the date provided in the procedural calendar, the Parties will send a consolidated list of the witnesses that will be called to the Tribunal. 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.
- 18.4. The Tribunal may call any witness or expert for cross-examination even if not called by the Parties. Within one week of the Party's notifications pursuant to §18.3 above, the Tribunal will communicate to the Parties the witnesses or experts not called by the Parties whom it wishes to question, if any.
- 18.5. If a Party wishes to request the Tribunal, pursuant to Arbitration Rule 36(3), to call upon the other Party to produce a witness who has not submitted a statement, it shall do so no later than 15 days after the submission of the Memorial (for a request that the Claimant be called upon to produce a witness), or Counter-Memorial (for a request that the Respondent be called upon to produce a witness), as applicable.
- 18.6. 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.
- 18.7. 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.
- 18.8. If a witness or expert called for examination 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.
- 18.9. The procedure for examining witnesses and experts at the hearing shall be the following:
 - 18.9.1. Direct examination of witnesses will be given in the form of witness statements. 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.

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The permissible duration of such direct examination shall be established at the Pre-hearing organizational meeting.

- 18.9.2. 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.
- 18.9.3. The adverse party may cross-examine a witness on matters that were addressed or presented in the witness statement or during direct examination, or that are within the witness' knowledge and relevant and material to the dispute.
- 18.9.4. 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.
- 18.9.5. 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.
- 18.9.6. The Tribunal may examine a witness or expert at any time, either before, during or after examination by any of the Parties.
- 18.10. Subject to an application by any of the Parties, factual witnesses shall not be allowed in the hearing room before giving their oral evidence, save for Opening Statements. Expert witnesses shall be allowed in the hearing room at any time.
- 18.11. Each Party shall be responsible for the practical arrangements, cost and availability of any witness or experts it offers. Subject to ICSID Arbitration Rule 52, the Tribunal will ultimately decide upon the appropriate allocation of such costs.
- 18.12. 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.
- 18.13. Examination by videoconference may be permitted for justified reasons at the discretion of the Tribunal, upon consultation with the Parties.
- 18.14. Each Party shall determine the order in which its witnesses and experts will be called to testify (taking into account the Tribunal's preference that experts testifying regarding the same subject matter should be called to testify sequentially), unless otherwise agreed by the Parties or ordered by the Tribunal.
- 18.15. Other matters regarding hearings shall be addressed at the pre-hearing organizational meeting or case management conference.

19. Pre-Hearing Organizational Meetings and Case Management Conferences

Arbitration Rule 31

- 19.1. A pre-hearing organizational meeting and/or a case management conference shall be held on the date(s) provided for in the procedural calendar or, alternatively, at a date determined by the Tribunal after consultation with the parties. It shall comprise a teleconference or videoconference between the Tribunal, or its President, and the parties and should address any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) 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. Case Management Conferences

Arbitration Rule 31

- 20.1. In consultation with the Parties, the Tribunal may convene case management conferences with the parties in accordance with ICSID Arbitration Rule 31 in order to (i) put in place a process to identify uncontested facts (e.g., through the submission of a joint chronology of facts); (ii) clarify and narrow the issues in dispute (e.g., by addressing tribunal questions, or submitting a decision tree, road map, matrix(es) and/or skeleton arguments); or (iii) address any other procedural or substantive issue related to the resolution of the dispute (e.g., the appointment of a Tribunal-appointed expert, or the production of evidence). It is expected that a case management conference will be held after the second round of written submissions.

21. Hearings

Arbitration Rule 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 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 §10.2 above.

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- 21.3. Having due regard to the views of the parties and the specific circumstances of the case, including any relevant travel or public health/security, the Tribunal may decide to hold a hearing remotely or in a hybrid form.
- 21.4. The hearing shall take place on the date specified in the procedural calendar (in any event not before 4 weeks after the filing of the last written submission).
- 21.5. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 21.6. In principle each party shall have equal time to present its case within the hearing schedule (subject to consideration of the number of the respective witnesses and experts).

22. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

- 22.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the parties and the Tribunal Members.
- 22.2. Verbatim transcript(s) in the procedural language(s) 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.
- 22.3. The parties shall endeavour to agree on any corrections to the transcripts within 21 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the court reporters 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 reporters in the revised transcripts.

23. Post-Hearing Memorials and Statements of Costs

Convention Article 44; Arbitration Rules 51

- 23.1. The scope, timing 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 (if any) shall have page-limits, and not be accompanied by any new evidence, documents, sources, witness statements or expert reports or opinions.
- 23.2. In accordance with Arbitration Rule 51, 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. Each Party may also include with that statement a brief explanation supporting the reasonableness of those costs and the reasons why they should be allocated in the manner proposed by that Party.

24. Transparency matters

Convention Article 48(5), Arbitration Rules 62-66

23.1. The parties agree that the transparency regime governing these proceedings is dealt with in Procedural Order No. 2.

25. Data Privacy and Cybersecurity

25.1. 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.

25.2. 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.

25.3. The parties and their representatives shall ensure that the storage and exchange of the personal data processed in this arbitration is protected by way of appropriate technical and organizational safeguards.

26. Amicable Dispute Settlement

26.1. The Tribunal notes that the parties may seek to reach an amicable settlement of all or part of the dispute, including through mediation under the ICSID Mediation Rules, at any time in the proceeding. If the parties settle the dispute in full, they may request that the Tribunal embody their settlement in its Award, pursuant to ICSID Arbitration Rule 55(2). Any agreement pursuant to ICSID Arbitration Rule 54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.

27. Other Matters

27.1. A party shall disclose to the Tribunal and the other party, without delay, the existence of any agreement related to the financing of the arbitration which it may have executed with a third party.

On behalf of the Tribunal,

[signed]

Dr. Claus von Wobeser
President of the Tribunal
Date: May 7, 2024

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>	
<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,	WITNESS/EXPERT INITIALS –###
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i> <i>MJ-0001</i>

Naftiran Intertrade Co. (NICO) Limited v. Kingdom of Bahrain
(ICSID Case No. ARB/22/34)

Draft Procedural Order No. 1 – Annex B

Legal Opinions	<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>
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-###
OTHER APPLICATIONS	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
	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>	