

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Elsewedy Electric for Transmission and Distribution of Energy S.A.E.**

**v.**

**Republic of South Sudan**

**(ICSID Case No. ARB/23/44)**

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**PROCEDURAL ORDER NO. 3  
ON DEFAULT PROCEDURES**

***Members of the Tribunal***

Mr. Baiju S. Vasani, President of the Tribunal  
Prof. Jan Paulsson, Arbitrator  
Prof. Dorothy U. Ufot SAN, Arbitrator

***Secretary of the Tribunal***

Ms. Aïssatou Diop

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January 28, 2025

**I. PROCEDURAL BACKGROUND**

1. Procedural Order No. 2 (“PO2”) issued on October 10, 2024, provided the following:
  23. Having considered the positions indicated by each side during the [Case Management Conference (“CMC”)] and further deliberated, the Tribunal decides as follows:
    - i. The Respondent’s Counter-Memorial is due on November 15, 2024.
    - ii. The hearing will take place from February 3 to February 4, 2025.
2. Regarding the place of the hearing, PO2 provided that “[a]s the parties need to agree on the place if it is not at the Centre, and to facilitate discussions, the Tribunal suggests to hold a short CMC with the parties on October 31, 2024, at 10 a.m. Washington, D.C.”
3. The Tribunal held a CMC on October 31, 2024, as scheduled. The Claimant was represented by Dr. Ahmed Zedan, Chief Legal Officer of Elsewedy Electric, and the Respondent by Ms. Nyeil Kuol, Embassy of the Republic of South Sudan in Washington, D.C.
4. At the start of the CMC, the Tribunal confirmed that both parties had received PO2 with the procedural schedule. The Tribunal pointed out the due date of the Counter-Memorial to the Respondent and the due date of the hearing to both parties. The Tribunal invited the parties to indicate if they had any comments or required any clarification in this regard.
5. Ms. Kuol indicated that she had communicated the discussion during the last CMM to Headquarters [i.e., the government of South Sudan], and that the government was still in the process of seeking legal counsel. Ms. Kuol added that South Sudan would not be able to answer regarding the due date of its Counter-Memorial and the proposed hearing dates until it had settled the question of its legal representation.
6. The Tribunal clarified that the due date of the Counter-Memorial and the dates of the hearing were not proposed dates; rather, they were ordered by the Tribunal and set out in the procedural schedule. The Tribunal added that if South Sudan wished to move these dates, it would have to make an application to the Tribunal and provide justifications.
7. Ms. Kuol responded that she understood.
8. The Tribunal requested that Ms. Kuol provide this information to South Sudan and its legal counsel.
9. The Tribunal then turned to the question of the hearing. First addressing the Claimant, the Tribunal asked if it had any comments.

10. The Claimant confirmed the dates of the hearing and requested that it be held remotely.
11. Ms. Kuol asked to take the proposal for a remote hearing to South Sudan, thus reserving the Respondent's position.
12. The Tribunal indicated that the ball was in the Respondent's court and that it would also await the Respondent's position on the modality of the hearing. The Tribunal added that if the Respondent did not agree to have a remote hearing, the parties should try to agree on a place for an in-person hearing and that, absent agreement between the parties, the Tribunal would make an order.
13. The parties having nothing else to add, the Tribunal ended the CMC.

## **II. DEFAULT PROCEDURES**

14. On December 30, 2024, the Claimant inquired about the Respondent's Counter-Memorial and the hearing.
15. On January 3, 2025, the Tribunal invited the Respondent to update it on the filing of its Counter-Memorial by January 10, 2024; failing which, the Tribunal invited the Claimant to indicate, by January 13, 2025, whether it wished to invoke default procedures in view of Article 45(2) of the ICSID Convention and Rule 49 of the ICSID Arbitration Rules.
16. On January 14, 2025, the Claimant indicated that it was invoking the default provision *per* Article 45(2) of the ICSID Convention.
17. In light of the above, the Tribunal hereby vacates the current hearing dates of February 3 to February 4, 2025.

## **III. DECISION**

18. The Tribunal grants the Respondent a grace period until March 14, 2025, to file its Counter-Memorial.
19. The hearing will be held remotely on March 24, 2025, at 10 a.m. Washington, D.C., with March 25, 2025, held in reserve.

On behalf of the Tribunal,

[signed]

Mr. Baiju S. Vasani  
President of the Tribunal  
Date: January 28, 2025