

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Tayeb Benabderrahmane

v.

The State of Qatar

(ICSID Case No. ARB/22/23)

PROCEDURAL ORDER NO. 9
Production of Documents

Members of the Tribunal

Ms. Lucinda Low, President of the Tribunal
Prof. Andreas Bucher, Arbitrator
Mr. Makhdoom Ali Khan, Arbitrator

Secretary of the Tribunal

Dr. Jonathan Chevry

June 20, 2025

I. INTRODUCTION AND PARTIES

1. The present dispute has been submitted to arbitration under the auspices of the International Centre for Settlement of Investment Disputes (“**ICSID**” or the “**Centre**”) on the basis of the Agreement between the Government of the French Republic and the Government of the State of Qatar on the reciprocal encouragement and protection of investments (the “**BIT**”)¹ and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the “**ICSID Convention**”).
2. The Claimant is Mr. Tayeb Benabderrahmane, a national of Algeria and France (the “**Claimant**”), and the Respondent is the State of Qatar (“**Qatar**” or the “**Respondent**”). The Claimant and the Respondent are collectively referred to as the “**Parties.**”
3. The present order sets out the Tribunal’s analysis and decision on the issue of production of documents. Attached as Annex A and B are Schedules, containing the decisions of the Tribunal on the specific requests. These Schedules are to be read with and form an integral part of this Order.

II. THE RELEVANT PROCEDURAL STEPS

4. On October 3, 2023, the Tribunal issued Procedural Order No. 3 (“**PO**”) which contained the Tribunal’s decision on the Claimant’s requests for document production.
5. On January 31, 2025, the Tribunal issued a revised procedural calendar.
6. Pursuant to Section 15 of Procedural Order No. 2 (“**PO2**”) and the revised procedural calendar effective January 31, 2025, the Parties exchanged on March 13, 2025, simultaneous requests to produce documents in the form of Document Request Schedules.

¹ Signed at Doha on July 8, 1996.

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The Claimant’s Document Request Schedule is divided into 19 categories of documents, and the Respondent’s Document Request Schedule into 18 categories of documents.

7. On April 10, 2025, the Parties exchanged their respective objections to the document production requests of the other Party.
8. On May 8, 2025, the Parties exchanges their respective replies to the other Party’s objections to the document production requests.
9. Pursuant to the revised procedural calendar effective January 31, 2025, the Parties filed their respective Document Request Schedules with the Tribunal on May 19, 2025.

III. THE APPLICABLE STANDARD

10. Article 36(c) of the ICSID Arbitration Rules, which as determined in PO1 of March 13, 2023, are the rules governing this arbitration, gives the Tribunal discretion to decide on applications for document production “at any stage of the proceedings”. This provision gives the Tribunal the power to grant an application at this stage if it deems appropriate. The Respondent does not appear to contest that the Tribunal has such power; rather, what it contests (on various grounds) is the particular requests of the Claimant.
11. The criteria for the Tribunal’s decision on such requests are set forth in Article 37 of the Rules. The guidance provided by the IBA 2000 Rules on the Taking of Evidence reinforces the elements of relevance and materiality in the ICSID Rules. They are consistent with the ICSID Rule 37, which takes into account “all relevant circumstances”. Given the mandatory language of Rule 37, the Tribunal will examine in turn each of its identified factors, to the extent relevant, as well as all other relevant circumstances, in reaching its decision on the Application.

IV. THE TRIBUNAL’S ANALYSIS

12. The Tribunal has set forth its decisions on each of the requests in the “Tribunal’s Decision” column of the relevant Party’s Schedule. The Tribunal emphasizes that with respect to the key issues of relevance and materiality, the Tribunal has made assessments of those factors on a *prima facie* basis, and its decisions reflect no prejudgment on its part of issues of jurisdiction, the merits, or quantum.

V. ORDER

13. For the foregoing reasons the details for which are stated in the Schedules attached as Annexes to this Order the requests by the Parties seeking production of documents, other than those requests or portions of requests not requiring any decision of the Tribunal as noted therein, are accepted in part and denied in part in the following manner:

a) *Claimant’s Document Production Requests:*

- (i) Requests Nos. 2, 3, 5, 7, 8, 9, 10, 19: Granted.
- (ii) Requests Nos. 1, 4, 6, 11, 12, 13, 14, 15, 16, 17, 18: Denied.

b) *Respondent’s Document Production Requests:*

- (i) Requests Nos. 2 and 18: Granted.
- (ii) Requests Nos. 1, 3, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 17: Denied.
- (iii) Requests Nos. 9, 10, 11: In light of the Claimant’s response, its voluntary production and submission, no further production in response is ordered by the Tribunal at this time.
- (iv) Request No. 16: No decision of the Tribunal is required in relation to part (i) in light of the Claimant’s voluntary production. As to part (ii), it is denied on the basis of the Claimant’s response that he does not have access to such

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documents. As to part (iii), the Claimant does not appear to deny the documents exist. The request is granted, subject to the considerations of privilege which the Respondent recognizes may be present.

14. The Parties are ordered to produce documents responsive to those requests that have been granted within 15 days from the date of this Order (i.e. on July 7, 2025, at the latest).
15. Insofar as documents ordered are not produced or not fully produced as decided in this Order, the Tribunal may take this into account in its assessment of the respective factual allegations and evidence, including the possibility to draw the inferences it deems appropriate, taking into consideration all relevant circumstances.
16. The assessment and distribution of the costs relevant to this production of documents process will be ruled upon at a later stage of these proceedings.

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On behalf of the Tribunal

[Signature]

Ms. Lucinda Low
President of the Tribunal
Date: June 20, 2025