

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

ExxonMobil Petroleum & Chemical BV

v.

Kingdom of the Netherlands

(ICSID Case No. ARB/24/44)

PROCEDURAL ORDER NO. 2
On Transparency and Confidentiality

Members of the Tribunal

Prof. Dr. Mohamed S. Abdel Wahab, President of the Tribunal

Prof. Stanimir A. Alexandrov, Arbitrator

Prof. Jorge E. Viñuales, Arbitrator

Secretary of the Tribunal

Izabela Chabinska

September 17, 2025

I. INTRODUCTION

1. On July 28, 2025, the Tribunal circulated a draft of this order (“**Draft PO2**”) for discussion by the Parties.
2. On August 19, 2025, the Parties commented on Draft PO2.
3. On August 26, 2025, the first session was held. During the first session, the Parties and the Tribunal discussed the Parties’ comments on Draft PO2 and the Draft Procedural Order No. 1.
4. This Procedural Order No. 2 contains the Parties’ agreements and the Tribunal’s decisions concerning the transparency regime governing this case.

II. LEGAL FRAMEWORK

5. The legal framework applicable to this proceeding is determined by the Energy Charter Treaty (the “ECT”) the ICSID Convention, and the 2022 ICSID Arbitration Rules. ICSID Arbitration Rules 62-66 contain provisions concerning the publication of the award, orders and decisions, other documents filed in the proceedings, transcripts and recordings of hearings, open hearings and the definition of confidential or protected information.
6. In accordance with ICSID Arbitration Rule 1(2), the Parties may agree on other rules governing transparency and confidentiality of this proceeding (provided such agreement does not conflict with the ICSID Convention or ICSID Administrative and Financial Regulations).
7. In this case, the ECT is silent with respect to transparency / confidentiality as regards disputes between investors and Contracting Parties. Therefore, the applicable provisions are those set out in Article 48(5) of the ICSID Convention and ICSID Arbitration Rules 62-66, as amended/supplemented by Section III of this Order.
8. For purposes of Section G below, confidential or protected information is information which is protected from public disclosure:
 - (a) by the instrument of consent to arbitration;

- (b) by the applicable law or applicable rules;
- (c) in the case of information of a State Party to the dispute, by the law of that State;
- (d) in accordance with the orders and decisions of the Tribunal;
- (e) by agreement of the Parties;
- (f) because it constitutes confidential business information or protected personal information;
- (g) because public disclosure would impede law enforcement;
- (h) because a State Party to the dispute considers that public disclosure would be contrary to its essential security interests, [REDACTED]
[REDACTED];
- (i) because public disclosure would aggravate the dispute between the Parties; or
- (j) because public disclosure would undermine the integrity of the arbitral process.

III. TRANSPARENCY RULES

9. The Tribunal adopts the following transparency and confidentiality rules governing the proceedings.

A. AWARD (ICSID ARBITRATION RULE 62)

10. For the purposes of Article 48(5) of the ICSID Convention and ICSID Arbitration Rule 62, the Parties consent to publication of the Award by ICSID on its website, subject to any redactions agreed by the Parties, or in case of disagreement, decided by the Tribunal, in accordance with Clause 8 above.¹ The Parties shall provide ICSID with their jointly redacted text within 60 days after the dispatch of the Award. The Tribunal will remain in office until it has resolved any disputed requests for redactions of the Award.

¹ Pursuant to ICSID Arbitration Rule 72(2) this procedural order shall continue to apply to an interpretation, revision or annulment proceeding with necessary modifications, unless the Parties agree or the Tribunal or Committee orders otherwise.

11. If the Parties do not agree on a jointly redacted text, they shall, within 60 days after the dispatch of the Award, inform ICSID and provide their respective proposals for redaction.

B. ORDERS AND DECISIONS (ICSID ARBITRATION RULE 63)

12. ICSID shall publish the orders and decisions of the Tribunal, excluding the annexes to any orders or decisions on document production, with any redactions agreed by the Parties or decided by the Tribunal, in accordance with Clause 8 above and Section G below.

C. WRITTEN SUBMISSIONS (ICSID ARBITRATION RULE 64)

13. The Parties do not consent to the publication of the Parties' written submissions by ICSID.

D. SUPPORTING DOCUMENTS (ICSID ARBITRATION RULE 64)

14. Supporting documents, including exhibits, legal authorities, witness statements and expert reports (including annexes, appendices or exhibits thereto) shall not be published by ICSID.

E. HEARINGS (ICSID ARBITRATION RULE 65(1)–(2))

15. Hearings shall not be open to the public.

F. TRANSCRIPTS AND RECORDINGS OF HEARINGS (ICSID ARBITRATION RULE 65(3))

16. Transcripts and recordings of hearings shall not be published by ICSID.

G. PROCEDURE FOR REDACTIONS – NON-DISCLOSURE OF CONFIDENTIAL OR PROTECTED INFORMATION (ICSID ARBITRATION RULE 66) AND DATA PRIVACY

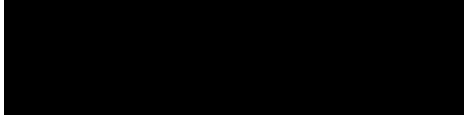
17. With respect to publication pursuant to Section B above, any confidential or protected information as defined in paragraph 8 above that is submitted to the Tribunal shall be protected from disclosure and publication in accordance with the procedure set forth below.
18. The Tribunal is mindful of the need to protect the personal data of individuals and draws the Parties' attention to Section 26 of Procedural Order No. 1. When identifying protected information in accordance with paragraph 19 below, the Tribunal

recommends that the Parties redact, to the extent possible, the names of individuals, possible identifiers (such as position, title, nationalities) and information that can be considered sensitive regarding any individuals mentioned in any document to be published.

19. Within 21 days from the date of a decision or order, a Party shall give written notice to the Tribunal and the other Party that it requests the non-disclosure of certain information it considers confidential or protected. Absent such a notice within the 21-day timeline, the Tribunal will authorize ICSID to publish the document or recording without redactions from the Parties.
20. Within 14 days of receipt of the notice referred to in paragraph 19, the other Party may raise objections to the proposed redactions.
21. If no objections are raised within the deadline established in paragraph 20, the Tribunal will authorize ICSID to publish the document or recording at issue with the requested redactions.
22. If objections are raised within the deadline established in paragraph 20, the Parties shall confer and seek to agree on redactions within 14 days of receipt of the objections to the proposed redactions. If the Parties reach an agreement, the Tribunal will authorize ICSID to publish the document at issue with the agreed redactions.
23. If objections remain unresolved, the disputed redaction requests and the objections thereto shall be submitted to the Tribunal in the form of the Transparency Schedule set out in Annex A to this Order. The Tribunal shall resolve the disputed redactions requests and communicate its decision to the Parties.
24. If information is to be redacted from a document in accordance with paragraphs 20, 21 or 22, the Parties shall provide a redacted version of the document. Upon receipt of the redacted document, the Tribunal will ask ICSID to publish the document.
25. The Members of the Tribunal will be compensated for time spent in the resolution of any disputes in connection with redaction of confidential information in the Award in accordance with Section 3 of Procedural Order No. 1, with their claims being paid from

the case fund administered by ICSID for this proceeding pursuant to the ICSID Administrative and Financial Regulations.²

On behalf of the Tribunal,



Prof. Dr. Mohamed S. Abdel Wahab
President of the Tribunal
Date: September 17, 2025

² As the proceeding will conclude upon dispatch of the Tribunal's Award, any costs incurred after the dispatch of the Award (e.g., arbitrator fees for time spent addressing disputed redactions) will not be considered part of the costs of the proceeding. To ensure the payment of such costs incurred in connection with disputes over redactions of the Award, the Parties agree that ICSID will keep the case trust fund open after the proceeding is concluded and debit the trust fund for any incurred costs. ICSID will close the case trust fund once the arbitrators have submitted their claims for fees relating to the resolution of disputes over redactions of the Award, if any.