

**THE INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT  
DISPUTES  
WASHINGTON D.C.**

In the Proceeding Between:

**ELECTRABEL S.A.**  
*(Claimant)*

v.

**REPUBLIC OF HUNGARY**  
*(Respondent)*

(ICSID Case No ARB/07/19)

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**Procedural Order No. 1**

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*Dated 19 November 2008*

1. On 7 November 2008, the Tribunal held a procedural session with the Parties, by telephone conference.

2. Participating in the session were:

Members of the Tribunal

Mr. V.V. Veeder QC, *President*

Professor Gabrielle Kaufmann-Köhler, *Arbitrator*

Professor Brigitte Stern, *Arbitrator*

ICSID Secretariat

Mr. Ucheora Onwuamaegbu, *Secretary of the Tribunal*

On behalf of the Claimants

Mr. Audley Sheppard, *Clifford Chance LLP*

Mr. Gareth Kenny, *Clifford Chance LLP*

Mr. László Kenyeres, *Faludi Wolf Theiss*

Mr. Zoltan Faludi, *Faludi Wolf Theiss*

On behalf of the Respondent

Ms. Jean E. Kalicki, *Arnold & Porter LLP*

Mr. Dmitri Evseev, *Arnold & Porter LLP*

Mr. Alessandro Maggi, *Arnold & Porter LLP*

Ms. Suzana Medeiros, *Arnold & Porter LLP*

3. The Agenda for the session, transmitted as a draft to the Parties in advance of the session, was as follows:

I. Agenda Items proposed by the Parties:

1. Report by the Claimant regarding the status of its document collection efforts pursuant to Respondent's request for documents and the Tribunal's letter of 24 October 2008;
2. Scheduling of submissions with regard to Respondent's preliminary objections filed 30 October 2008;
3. Scheduling of the Claimant's Reply and Respondent's Rejoinder submissions following Respondent's Counter-Memorial submission on 30 December 2008;
4. Scheduling of Document Production Requests following Respondent's Counter Memorial;
5. The European Commission's request to present an amicus curiae submission pursuant to ICSID Arbitration Rule 37; and
6. Update on the possible termination of the power purchase agreement and other recent developments affecting the Claimant's investment.

II Other Matters:

7. If necessary - Contingent date and venue for an in-person procedural meeting.

4. Having read the Parties' written submissions contained in earlier correspondence, heard the Parties' legal representatives at the session and having, thereafter, deliberated among its members, the Tribunal has decided as follows:

- (A) (1) As regards Items 3, 4 and 6 of the Agenda, the Tribunal considers that it would better promote the fairness and efficiency of these proceedings for the Claimant to complete its memorial by presenting its additional claim (as intimated in Paragraph 6 of its letter dated 17 November 2008) before the Respondent filed its counter-memorial;
- (2) Accordingly, the Claimant is ordered to file its additional claim (together with all supporting documentation, as for its memorial) by 30 January 2009. If this timetable becomes inappropriate for any reason, the Claimant should take immediate steps to notify the Respondent and the Tribunal in writing;

(3) The Parties are requested to agree the subsequent procedural timetable for the written procedure under Rule 31 of the ICSID Arbitration Rules, including requests for document production, as soon as practicable but not later than 1 December 2008; and if the same is not agreed, the Parties should submit their procedural differences to the Tribunal in writing on 1 December 2008 for the Tribunal's decision; and

(4) The Parties are requested, in preparing this revised procedural timetable, to consider possible dates for one or more procedural meetings, whether in-person or by telephone conference and whether after the filing of the Respondent's counter-memorial or after the filing of the Respondent's Rejoinder; and the Parties are also invited to consider the likely length, venue and timing of the oral procedure under Rule 32 of the ICSID Arbitration Rules, with a view to fixing those dates as soon as practicable.

(B) As regards Item 2, the Tribunal notes the Parties' agreement during this procedural meeting that the Respondent's "Section IV" Preliminary Objections be suspended for the time being (until further order of the Tribunal) whilst its "Section III" Preliminary Objections be joined to the merits (the references to such Objections being those set out in the Respondent's Preliminary Objections of 30 October 2008).

(C) (1) As regards Item 5, having considered the Parties' oral submissions at this session together with the Parties' written submissions of 30 September, 10 October, 13 October, 16 October and 17 November 2008, the Tribunal decides in principle to allow the European Commission, as a non-disputing party under Rule 37(2) of the ICSID Arbitration Rules, to file a written submission to the Tribunal regarding a legal matter within the scope of the Parties' dispute (as requested by its letters of 13 August and 3 September 2008) - subject to the Tribunal hereafter first determining the practicalities and timing of such a submission in further consultation with the Parties, bearing in mind the factors listed in the last paragraph of Rule 37(2). The Tribunal will notify its decision to the European Commission in due course; and

(2) Accordingly, the Parties are requested to agree such practicalities and timing as soon as practicable after the filing of the Claimant's additional claim; and if the same were not agreed, the Parties should submit their procedural differences to the Tribunal in writing not later than 13 February 2009 for the Tribunal's decision.

*[Signed]*

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V.V.Veeder  
President of the Tribunal