

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**WORTH CAPITAL HOLDINGS 27 LLC**

**v.**

**REPUBLIC OF PERU**

**(ICSID CASE NO. ARB/20/51)**

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**PROCEDURAL ORDER No. 1**

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***Members of the Tribunal***

Ms. Juliet Blanch, President of the Tribunal

Dr. Horacio Grigera Naón, Arbitrator

Prof. Dr. Rolf Knieper, Arbitrator

***Secretary of the Tribunal***

Ms. Sara Marzal

30 September 2021

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**Introduction**

The First Session of the Tribunal was held on 14 September 2021 by videoconference beginning at 10:00 a.m. EST. Participating were:

Members of the Tribunal

Ms. Juliet Blanch, President of the Tribunal  
Dr. Horacio Grigera Naón, Arbitrator  
Prof. Dr. Rolf Knieper, Arbitrator

ICSID Secretariat:

Ms. Sara Marzal, Secretary of the Tribunal

Participating on behalf of Claimant:

Mr. Steven Finizio, Wilmer Cutler Pickering Hale and Dorr LLP  
Ms. Danielle Morris, Wilmer Cutler Pickering Hale and Dorr LLP  
Mr. Sam Winter-Barker, Wilmer Cutler Pickering Hale and Dorr LLP  
Mr. Thomas Dewey, Dewey Pego & Kramarsky LLP

Participating on behalf of Respondent:

Ms. Mónica Guerrero Acevedo, Secretaría Técnica de la Comisión Especial del Sistema de Coordinación y Respuesta del Estado en Controversias Internacionales de Inversión  
Mr. Mijail Feliciano Cienfuegos Falcón, Secretaría Técnica de la Comisión Especial del Sistema de Coordinación y Respuesta del Estado en Controversias Internacionales de Inversión  
Mr. Paolo Di Rosa, Arnold & Porter  
Mr. Patricio Grané Labat, Arnold & Porter  
Mr. Monty Taylor, Arnold & Porter

The following was considered during the First Session:

- The Draft Procedural Order circulated by the Secretary of the Tribunal on 31 August 2021; and
- The Parties'<sup>1</sup> comments on the Draft Procedural Order received on 9 and 14 September 2021, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

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<sup>1</sup> In this Order, the term “Parties” is used to refer to the Claimant and the Respondent in this proceeding, and the term “Party” is used to refer to either the Claimant or the Respondent. (The Tribunal is mindful that Chapter 10, Sections B and C of the US-Peru TPA refer to the Claimant and the Respondent together as the “disputing parties” and to either

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The First Session was adjourned at 10:35 a.m. EST. An audio recording was made and deposited in the archives of ICSID. The recording was subsequently distributed to the Members of the Tribunal and the Parties.

Following the session, the Tribunal now issues the present Order:

**Order**

Pursuant to ICSID Arbitration Rules 19 and 20, this first Procedural Order sets out the Procedural Rules that govern this arbitration. The Procedural Calendar is attached as **Annex A**.

**1. Applicable Arbitration Rules**

*Convention Article 44; US-Peru TPA Article 10.16(5)*

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of 10 April 2006, except to the extent provided otherwise by Section B of Chapter 10 of the Trade Promotion Agreement between the United States of America and the Republic of Peru signed on 12 April 2006, in force on 1 February 2009 (“US-Peru TPA”), in which case the US-Peru TPA provision shall apply.

**2. Constitution of the Tribunal and Tribunal Members’ Declarations**

*Arbitration Rule 6*

- 2.1. The Tribunal was constituted on 6 August 2021 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 6(2). Copies of these declarations were distributed to the Parties by the ICSID Secretariat on 9 February and 6 August 2021.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case.
- 2.4. The contact details for the Members of the Tribunal are:

**Ms. Juliet Blanch**  
Lamb Building, 3rd Floor South  
Temple, London, EC4Y 7AS  
United Kingdom  
[juliet.blanch@arbchambers.com](mailto:juliet.blanch@arbchambers.com)

**Dr. Horacio Grigera Naón**  
5224 Elliott Road  
Bethesda, Maryland 20816  
United States of America  
[hgnlaw@gmail.com](mailto:hgnlaw@gmail.com)

**Prof. Dr. Rolf Knieper**  
Reichsforststraße 20  
60528 Frankfurt/Main  
Germany  
[rolf.knieper@gmail.com](mailto:rolf.knieper@gmail.com)

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of them as a “disputing party.”) In this Order, the State signatories of the TPA (United States and Peru) will be referred to as “TPA Party” or the “TPA Parties,” for clarity. (The Tribunal is mindful that the US-Peru TPA refers to the States signatories to the TPA as “Party.”)

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**3. Fees and Expenses of Members of the Tribunal**

*Convention Article 60; Administrative and Financial Regulation 14; ICSID Schedule of Fees*

- 3.1. The fees and expenses of each Member of the Tribunal shall be determined and paid in accordance with the ICSID Schedule of Fees and the Memorandum on Fees and Expenses of ICSID Arbitrators in force at the time the fees and expenses are incurred.
- 3.2. Under the current Schedule of Fees, each Member of the Tribunal receives:
  - 3.2.1. US\$3,000 for each day of meetings or each eight hours of other work performed in connection with the proceedings or *pro rata*; and
  - 3.2.2. subsistence allowances, reimbursement of travel, and other expenses pursuant to ICSID Administrative and Financial Regulation 14.
- 3.3. Each Member of the Tribunal shall submit her/his claims for fees and expenses to the ICSID Secretariat on a quarterly basis.
- 3.4. Non-refundable expenses incurred in connection with a hearing as a result of a postponement or cancellation of the hearing shall be reimbursed.

**4. Presence and Quorum**

*Arbitration Rules 14(2) and 20(1)(a)*

- 4.1. The presence of all Members of the Tribunal constitutes a quorum for its sittings, including by any appropriate means of communication.

**5. Rulings of the Tribunal**

*Convention Article 48(1); Arbitration Rules 16, 19 and 20*

- 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 5.2. ICSID Arbitration Rule 16(2) applies to decisions taken by correspondence, except that where the matter is urgent and consultation with the other Members of the Tribunal is not practicable, the President may decide procedural matters without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.
- 5.3. The Tribunal shall issue all rulings, including the Award, within a reasonable time period. With the exception of the Award, if a decision on any matter has not been issued within three months of the final submission on that matter, the Tribunal will provide the Parties with status updates every month. The Tribunal shall endeavor to issue any award within nine months of the final submissions (including any post-hearing briefs which might be ordered). If the Award has not been issued within nine months of the final submissions, the Tribunal will provide the Parties with status updates every two months.

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- 5.4. The President is authorized to issue Procedural Orders on behalf of the Tribunal.
- 5.5. The Tribunal's rulings on procedural matters may be communicated to the Parties by the Secretary of the Tribunal in the form of a letter or email.
- 5.6. 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 Rule 26(1)*

- 6.1. The President may fix and extend time limits for the completion of the various steps in the proceeding.
- 6.2. In exercising this power, the President shall consult with the other Members of the Tribunal. If the matter is urgent, the President may fix or extend time limits without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.

**7. Secretary of the Tribunal**

*Administrative and Financial Regulation 25*

- 7.1. The Secretary of the Tribunal is Ms. Sara Marzal, Legal Counsel, ICSID, or such other person as ICSID may notify the Tribunal and the Parties from time to time.
- 7.2. To send copies of communications by email, mail, and courier/parcel deliveries to the ICSID Secretariat, the contact details are:

Ms. Sara Marzal  
ICSID  
MSN C3-300  
1818 H Street, N.W.  
Washington, D.C. 20433  
USA  
Tel.: + 1 (202) 473-6434  
Fax: + 1 (202) 522-2615  
Email: [smarzal@worldbank.org](mailto:smarzal@worldbank.org)

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

Ms. Sara Marzal  
ICSID  
1225 Connecticut Ave. N.W.  
(World Bank C Building)  
3rd Floor  
Washington, D.C. 20036  
USA

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Tel.: + 1 (202) 473-6434

**8. Representation of the Parties**

*Arbitration Rule 18*

8.1. Each Party shall be represented by its counsel (below) and may designate additional agents, counsel, or advocates by notifying the Tribunal and the Secretary of the Tribunal promptly of such designation.

For Claimant:

Mr. Gary Born  
Mr. Steven Finizio  
Wilmer Cutler Pickering Hale and Dorr  
LLP  
49 Park Lane  
London  
W1K 1PS  
United Kingdom  
+44 (0)20 7872 1000  
[gary.born@wilmerhale.com](mailto:gary.born@wilmerhale.com)  
[steven.finizio@wilmerhale.com](mailto:steven.finizio@wilmerhale.com)  
and  
Ms. Danielle Morris  
Wilmer Cutler Pickering Hale and Dorr  
LLP  
1875 Pennsylvania Avenue NW  
Washington, DC 20006  
United States of America  
+1 202 663 6464  
[danielle.morris@wilmerhale.com](mailto:danielle.morris@wilmerhale.com)  
and  
Mr. Thomas E. L. Dewey  
Mr. Christopher P. DeNicola  
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+1 212 943 9000  
[tdewey@dpklaw.com](mailto:tdewey@dpklaw.com)  
[cdenicola@dpklaw.com](mailto:cdenicola@dpklaw.com)

For Respondent:

Ms. Vanessa Rivas Plata Saldarriaga  
Presidenta de la Comisión Especial  
Ms. Mónica del Pilar Guerrero Acevedo  
Mr. Mijail Cienfuegos Falcón  
Secretaría Técnica de la Comisión Especial  
que Representa al Estado en Controversias  
Internacionales de Inversión  
Sede Central  
Ministerio de Economía y Finanzas  
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[mguerreroa@mef.gob.pe](mailto:mguerreroa@mef.gob.pe)  
and  
Mr. Paolo Di Rosa  
Ms. Mallory Silberman  
Ms. Naomi Biden  
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[Naomi.Biden@arnoldporter.com](mailto:Naomi.Biden@arnoldporter.com)  
and  
Mr. Patricio Grané Labat  
Mr. Monty Taylor  
Arnold & Porter Kaye Scholer LLP  
Tower 42  
25 Old Broad Street  
London EC2N 1HQ  
United Kingdom

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[Patricio.Grane@arnoldporter.com](mailto:Patricio.Grane@arnoldporter.com)

[Monty.Taylor@arnoldporter.com](mailto:Monty.Taylor@arnoldporter.com)

- 8.2. Communications destined for the Republic of Peru shall also be sent to [xPeruWorthCapital@arnoldporter.com](mailto:xPeruWorthCapital@arnoldporter.com).
- 8.3. Communications destined for the Claimant shall also be sent to [ICSIDWorthCapitalPeru@wilmerhale.com](mailto:ICSIDWorthCapitalPeru@wilmerhale.com).

**9. Apportionment of Costs and Advance Payments to ICSID**

*Convention Article 61(2); Administrative and Financial Regulation 14; Arbitration Rule 28*

- 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. By letter of August 9, 2021, ICSID requested that each Party pay US\$ 200,000.00 to cover the initial costs of the proceeding. ICSID received Claimant's payment on 7 September 2021, and the Respondent's payment on 25 August 2021.
- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.
- 9.4. Within 10 business days of the date of this Order, if a Party (or its counsel) benefits from the provision of funds or other material support for the pursuit or defense of its case in these proceedings, by a natural or juridical person that is not a party to the dispute ("third-party funder"), that Party shall make a declaration to that effect and disclose to the Centre the name and address of the third-party funder.
- 9.5. Each Party shall have a continuing obligation to disclose any changes to the information referred to in the preceding paragraph, occurring after any initial disclosure, including commencement or termination of the third-party funding arrangement, within 10 business days of the relevant change occurring.

**10. Place of Proceeding**

*Convention Articles 62 and 63; Administrative and Financial Regulation 26; Arbitration Rule 13(3); US-Peru TPA Article 10.20(1)*

- 10.1. Washington, D.C., United States of America, shall be the place of the proceeding.
- 10.2. The Tribunal may hold in-person hearings at any other place that it considers appropriate if the Parties so agree.
- 10.3. The Tribunal may deliberate at any place and by any appropriate means it considers convenient.

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**11. Procedural Languages, Translation and Interpretation**

*Administrative and Financial Regulation 30(3) and (4); Arbitration Rules 20(1)(b) and 22*

11.1. English and Spanish are the procedural languages of the arbitration.

*Routine, administrative, or procedural correspondence*

11.2. Routine, administrative, or procedural correspondence addressed to or sent by the ICSID Secretariat shall be in English or with an English translation to be provided within three days.

*For Parties' Requests or Applications and Parties' Pleadings*

11.3. Any written requests or applications may be submitted in either procedural language. If the request or application is submitted in Spanish, an English translation shall be filed within five days.

11.4. Pleadings, witness statements, expert reports, and any other accompanying documentation submitted in Spanish will be followed by the filing of a translation of such document (subject to §11.5 in the case of accompanying documentation) into English within 21 days thereafter. No Spanish translations will be required in the event that such documents are submitted in English.

11.5. Accompanying documentation (e.g., exhibits, legal authorities, annexes to expert opinions, etc.) in any language other than English or Spanish shall be translated into English. If a document is lengthy and relevant only in part, it is sufficient to translate only relevant parts, provided that the Tribunal may require a fuller or a complete translation at the request of any Party or on its own initiative.

11.6. Translations need not be certified unless there is a dispute as to the translation provided and the Tribunal orders a certified version.

11.7. Documents exchanged between the Parties under §15 *infra* (Production of Documents) may be produced in the original language and need not be translated.

*For Hearing*

11.8. The hearing shall be conducted in English and Spanish with simultaneous interpretation into the other procedural language. Transcripts shall be taken in both procedural languages.

11.9. The testimony of a witness called for examination during the hearing who prefers to give evidence other than in the English or Spanish languages shall be interpreted into both procedural languages, simultaneously if possible.

11.10. The Parties will notify the Tribunal, as soon as possible, and no later than at the pre-hearing organizational meeting (*see* §19 *infra*), which witnesses or experts require interpretation.

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- 11.11. The costs of the interpreter(s) 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. ICSID will hire interpreters for the hearing, but the Parties will be consulted about the interpreters whose hiring is proposed.

*For Tribunal's Rulings Except the Award*

- 11.12. The Tribunal may make procedural orders or decisions in English, provided that a Spanish translation is provided thereafter. In case of conflict, the English language version of the procedural order or decision will prevail.

*For Tribunal's Award*

- 11.13. The Tribunal shall render the Award in English and Spanish simultaneously. In case of conflict, the English language version of the Award will prevail.

**12. Routing of Communications**

*Administrative and Financial Regulation 24*

- 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 Secretary of the Tribunal, 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 Secretary of the Tribunal only, who shall send them to the opposing Party and the Tribunal once both Parties' communications are received.
- 12.4. The Secretary of the Tribunal 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**

*Administrative and Financial Regulation 30; Arbitration Rules 20(1)(d) and 23*

- 13.1. By the relevant filing date, the Parties shall:
- 13.1.1. submit by email to the Secretary of the Tribunal and the opposing Party an electronic version of the pleading with witness statements, expert reports and an updated index of all the supporting documentation (listing exhibits, legal authorities, witness statements and expert reports);<sup>2</sup> and

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<sup>2</sup> Please note that the World Bank server does not accept emails larger than 25 MB.

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13.1.2. upload the pleading with witness statements, expert reports and the updated index to the folder created by ICSID for purposes of this case in ICSID's electronic file sharing platform (§§13.1.1 and 13.1.2 together, the “**Electronic Filing**”). Exhibits shall be uploaded to ICSID's electronic file sharing platform three business days after the filing date.

For the avoidance of doubt, the Electronic Filing process described *supra* §§13.1.1 and 13.1.2 is applicable both to the original language submission and to the submission of subsequent translations agreed (subject to §11.4), if any.

13.2. Four business days following the Electronic Filing of the translations, the Parties shall courier to each Member of the Tribunal at the addresses indicated at §2.4 *supra*:

13.2.1. one USB drive<sup>3</sup> with a full copy of the entire submission, both in the original language and translations, including the pleading, the witness statements, expert reports, exhibits, legal authorities and the updated index of all the supporting documentation. The content of the USB shall be identical to the Electronic Filing referred to in §13.1 *supra*.

13.2.2. to Dr. Grigera Naón and Prof. Dr. Knieper,<sup>4</sup> one hard copy double sided in A5 format of the entire submission both in the original language and translations<sup>5</sup> including the pleading, the witness statements and expert reports (but not including factual exhibits or legal authorities).

13.3. Electronic files of pleadings, witness statements, expert reports, and (to the extent possible) exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word).

13.4. All pleadings shall be accompanied by a consolidated and updated index to the supporting documentation. The index shall indicate the document number, the pleading with which it was submitted and the language of the document. The index shall use the naming conventions in **Annex B**.

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 courier to the ICSID Secretariat at the address indicated at §7.2 or 7.3 *supra* and each Member of the Tribunal at the addresses indicated at §2.4 *supra* a USB drive containing an electronic copy of the entire case file (including pleadings, witness statements, expert reports, exhibits, legal authorities and Tribunal decisions

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<sup>3</sup> The USB drives should be marked to identify the case they relate to and what they contain.

<sup>4</sup> Ms. Blanch does not wish to receive any hard copies.

<sup>5</sup> Prof. Dr. Knieper does not wish to receive hard copies of the submissions in Spanish.

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and orders to date) with a consolidated and updated hyperlinked index of all documents.

- 13.6. The official date of receipt of a pleading or communication shall be the day on which the electronic file is sent to the Secretary of the Tribunal by email.
- 13.7. A filing shall be deemed timely if sent by a Party by 11:59pm, Washington, D.C. time, on the relevant date.

**14. Number and Sequence of Pleadings**

*Arbitration Rules 20(1)(c), 20(1)(e), 29 and 31*

- 14.1. The number and sequence of pleadings, and the dates on which they are to be filed, shall be as set out in **Annex A**.
- 14.2. The Parties will submit the pleadings by the deadlines established in the Procedural Calendar.
- 14.3. In the first exchange of submissions (Memorial and Counter-Memorial), the Parties shall set forth all the facts and legal arguments on which they intend to rely. Allegations of fact and legal arguments shall be presented in a detailed, specified, and comprehensive manner.
- 14.4. In their second exchange of submissions (Reply and Rejoinder), the Parties shall limit themselves to responding to allegations of fact and legal arguments made by the other Party in the first exchange of submissions, unless new facts have arisen after the first exchange of submissions which justify new allegations of fact and/or legal arguments.
- 14.5. Following each factual allegation, the Parties shall, whenever possible, identify the evidence adduced or to be adduced in support of that allegation. Following each legal argument, the Parties shall, whenever possible, identify the legal authority adduced or to be adduced in support of that argument.
- 14.6. All written submissions shall be divided into consecutively numbered paragraphs.
- 14.7. A hearing will take place in accordance with the terms of §20 *infra* and the Procedural Calendar (Annex A).

**15. Production of Documents**

*Convention Article 43(a); Arbitration Rules 24 and 33-36*

- 15.1. Notwithstanding §§15.2 and 15.6 below, the IBA (International Bar Association) Rules on the Taking of Evidence in International Arbitration (adopted by a resolution of the IBA Council on 17 December 2020) (“**IBA Rules**”), insofar as they are consistent with this Order, the ICSID Convention and the ICSID Arbitration Rules,

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will be used as nonbinding guidance in this case by the Tribunal and the Parties for any evidentiary question.

- 15.2. Within the time limit set out in the Procedural Calendar in Annex A, any Party may submit to the other Party (without copying the Members of the Tribunal or the Secretary of the Tribunal) a request to produce a limited number of documents or narrow categories of documents within the other Party's possession, custody or control in accordance with the IBA Rules. The request shall identify with precision each document or narrow category of documents sought and establish its relevance to the case and materiality to the outcome. The requests to produce, responses and replies and any applications to the Tribunal shall be made in the form of a Redfern Schedule in the format set out in **Annex C** hereto. An electronic MS Word version of the Redfern Schedule is to be transmitted to the Party to whom the request is made and, when requesting the Tribunal's decision, to the Tribunal.
- 15.3. Each request for a document shall contain:
  - 15.3.1. A description that is sufficient to identify the document and its subject matter, or else a sufficiently detailed description of the specific category of documents reasonably believed to exist;
  - 15.3.2. A declaration as to why the documents sought are relevant to the dispute and material to the outcome of the case; and
  - 15.3.3. A declaration that the documents sought are not within the requesting Party's possession, custody, or control, as well as a declaration stating the requesting Party's reasons for believing that the documents sought are within the other Party's possession, custody, or control.
- 15.4. Within the time limit set out in the Procedural Calendar, using column 4 of the schedule provided by the first Party (the "**Requesting Party**"), the Party to whom the request is made (the "**Requested Party**") shall either confirm that it will produce the requested documents that are in its possession, custody or control or set forth its objections to the production sought, and the reasons for such objections. At this stage, the Redfern Schedule should be sent to the first Party only (not to the Tribunal or the Tribunal Secretary).
- 15.5. Within the time limit set out in the Procedural Calendar, the Requesting Party shall reply to the Requested Party's objections in column 5 of the same schedule. Such reply shall be limited to answering specific objections made in column 4. Each Party shall then file simultaneously (in accordance with §12.3 *supra*) with the Tribunal the completed schedule (in both MS Word and PDF formats).
- 15.6. The Tribunal shall endeavor to resolve any contested document requests on or before the relevant date set out in the Procedural Calendar, having regard to all of the surrounding circumstances, as well as the requirements under this section and the

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IBA Rules (including specificity, materiality, and any rules on legal privilege and confidentiality).

- 15.7. Within the time limit set out in the Procedural Calendar, documents shall be produced which are responsive to requests for which no objection has been made, and where objections have been made, documents shall be produced to the extent directed by the Tribunal. Documents shall be produced to the Requesting Party without copying the Tribunal.
- 15.8. Documents produced in accordance with this Section (either voluntarily or pursuant to Tribunal order) shall not be considered to be part of the record unless and until a Party subsequently files them as exhibits in accordance with the Procedural Calendar or with any other applicable procedural order or decision.
- 15.9. The Tribunal shall have discretion to order a Party to produce documents or other evidence without regard to whether the documents or evidence have been requested by the other Party. In the event the Tribunal intends to exercise that discretion, it will give due notice to the Parties and provide the Parties with an opportunity to make submissions as to whether the Tribunal should exercise its discretion in the particular circumstances.
- 15.10. In case of the failure by a Party, without satisfactory explanation, to comply with an order of the Tribunal to produce a document, or a category of documents, the Tribunal may make any inferences it deems appropriate in light of the relevant circumstances.
- 15.11. At any time in the proceeding, upon good cause shown, a Party can request the production of documents either by agreement of the Parties or by applying to the Tribunal.
- 15.12. The Parties and the Tribunal take note of the provisions in Articles 10.21(3) and 10.21(4) of the US-Peru TPA.

**16. Submission of Documents**

*Convention Article 44; Administrative and Financial Regulation 30; Arbitration Rule 24*

- 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 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 *supra*.
- 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 reasoned written request followed by observations from the other Party, and taking into account the timing of the request, including in particular proximity in time to the hearing.

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- 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 a document.
- 16.4. The Tribunal may call upon the Parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 34(2).
- 16.5. The documents shall be submitted in the following form:
  - 16.5.1. Exhibits and Legal Authorities shall be numbered consecutively throughout these proceedings.
  - 16.5.2. The number of each document produced by Claimant shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal authorities. The number for each document produced by Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal authorities.
  - 16.5.3. Exhibits and Legal Authorities shall be submitted in PDF format and start with the number “C-0001”, “CL-0001”, “R-0001”, “RL-0001”, respectively. The numbering shall also indicate the language of the document, *e.g.*, C-0001-ENG for a document submitted in English, C-0001-SPA for a document submitted in Spanish, and C-0001-SPA/ENG for a document submitted simultaneously in the same PDF file in Spanish original with an English translation.
  - 16.5.4. The number of the Exhibit or Legal Authority shall appear on the first page of the document, and shall be used for the electronic file name in accordance with the naming conventions referred *infra* §16.5.6 and **Annex B**.
  - 16.5.5. A Party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.
  - 16.5.6. Electronic filings and the accompanying indexes shall follow the naming conventions contained in **Annex B**.
- 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.
- 16.7. The Parties shall file all documents only once by submitting them with their pleadings. Documents so filed need not be resubmitted with witness statements even if referred to in such statements. If a witness or expert refers to a document which is,

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or is to be, part of the record, they shall include the relevant document number whenever they make reference to that document.

16.8. Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence. Each Party shall number its demonstrative exhibits consecutively (preceded by “CD-” for Claimant, and “RD-” for Respondent), and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The Party submitting such exhibits shall provide them in electronic and, if requested, hard copy to the other Party, the Members of the Tribunal, the Secretary of the Tribunal, the court reporter(s) and interpreter(s) at the hearing at a time to be decided at the pre-hearing organizational meeting.

**17. Witness Statements and Expert Reports**

*Convention Article 43(a); Arbitration Rule 24; US-Peru TPA Article 10.24*

17.1. Copies of 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 *supra*).

17.3. Each witness statement and expert report shall contain numbered paragraphs and be signed and dated by the witness.

17.4. Expert reports shall be accompanied by any documents or information upon which they rely, unless such documents or information have already been submitted as exhibits with the Parties’ submissions, in which case reference to such exhibits shall be sufficient. Such documents or information shall be subject to the rules on language set forth in §11 *supra*.

17.5. Pursuant to Article 10.24 of the US-Peru TPA, the “tribunal, at the request of a disputing party [i.e. Claimant or Respondent] or, unless the disputing parties disapprove, on its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning environmental, health, safety, or other scientific matters raised by a disputing party in a proceeding, subject to such terms and conditions as the disputing parties may agree.”

**18. Examination of Witnesses and Experts**

*Arbitration Rules 35 and 36*

18.1. The Parties agree that all matters addressed in this section may be revisited at the pre-hearing organizational meeting, as appropriate.

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- 18.2. Any person may present evidence as a witness, including a Party or a Party's officer, employee, or other representative.
- 18.3. For each witness, a written, signed, and dated witness statement shall be submitted to the Tribunal.
- 18.4. Each witness statement shall state the witness's name, date of birth, and involvement in the case.
- 18.5. Witness statements shall be submitted in either procedural language.
- 18.6. In accordance with §17.1 *supra*, each Party will submit its witness statements together with its written submission. The witness statement shall be numbered independently from other documents and properly identified (including the language of the statement). If a Party submits more than one witness statement by the same witness, the subsequent witness statement shall be identified as "Second Witness Statement," "Third Witness Statement," and so on. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, identify relevant documents, or prepare the witness statements and the examinations.
- 18.7. Each Party shall be responsible for securing the appearance of its own witnesses to the hearing, except when the other Party has waived cross-examination of a witness and the Tribunal does not direct his or her appearance. If a witness or expert who was presented by a Party has not been called by the other party or by the Tribunal for examination at the hearing, the presenting Party may not call such witness or expert to testify at the hearing, except for good cause shown (for example, where a Party seeks to present a witness not otherwise called to offer corrections or clarifications that may be necessary to prevent a misunderstanding of that witness's written statement or to address a relevant development that occurred after the witness signed the witness statement). If a witness or expert who has been called by the other Party or by the Tribunal for examination at the hearing is not available for the hearing, the Tribunal shall decide what weight, if any, to give to the witness statement or expert report, taking into account the entire record and all the relevant circumstances, including whether to strike the witness statement or expert report from the record.
- 18.8. Each Party shall notify the other Party of the witnesses or experts it intends to cross-examine by the date to be established by the Tribunal. The Tribunal shall then identify the remaining witnesses or experts (if any) that it wishes to call for examination.
- 18.9. The facts contained in the written statement of a witness or expert whose cross-examination has been waived by the other Party, or not called by the Tribunal, shall not be deemed to have been accepted or established by the sole fact that no cross-examination has been requested. The Tribunal will assess the weight of the witness statement or expert report taking into account the entire record and all the relevant circumstances.

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- 18.10. Each Party shall be responsible for the practical arrangements, cost, and availability of any witness it offers. The Tribunal will decide upon the appropriate allocation of any related costs in the final Award.
- 18.11. The Tribunal may allow a witness to appear and be examined by videoconference, provided that there exist valid and exceptional reasons that prevents the witness from appearing in person. In such an event, the Tribunal will issue appropriate directions for the witness's examination by videoconference.
- 18.12. The order in which the witnesses and experts shall be heard shall be discussed at the pre-hearing organizational meeting.
- 18.13. At the hearing, the examination of each witness shall proceed as follows:
  - 18.13.1. A factual witness shall make the declaration provided in Rule 35(2) of the Arbitration Rules, while an expert witness shall make the declaration set out in Rule 35(3) of the Arbitration Rules.
  - 18.13.2. Witnesses giving oral testimony may first be examined in direct examination. Direct examination of factual witnesses shall be brief and limited to introducing the witness, confirming the accuracy of and completeness of the witness's written statement(s), offering any corrections or clarifications that may be necessary to prevent a misunderstanding of that witness's written direct testimony, highlighting briefly the key points of his or her witness statement, and addressing any relevant development that occurred after the witness signed the witness statement. In lieu of direct examination the expert may provide a brief presentation of the key points of his or her report.
  - 18.13.3. Cross-examination shall be on the subject matter of the witness statements and matters affecting the witness's credibility. In appropriate circumstances, the witness may be cross-examined on matters or issues which are relevant within the witness's direct knowledge and not necessarily limited to matters and issues addressed in that witness's written statement.
  - 18.13.4. The Party who has presented the witness may then re-examine the witness with respect to any matters or issues arising out of the cross-examination ("**redirect examination**"), followed in appropriate circumstances by the possibility of re-cross-examination on matters or issues arising out of the redirect examination.
  - 18.13.5. The Tribunal may examine the witness at any time, either before, during, or after examination by one of the Parties.
  - 18.13.6. Subject to a different agreement by the Parties or decision of the Tribunal, a fact witness (other than a party representative), prior to his or her

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examination, shall not be present in the hearing room during oral testimony and arguments, read the transcript of oral testimony or argument, or be informed of its contents. Expert witnesses shall be allowed in the hearing room at any time, including during the cross-examination of other factual or expert witnesses. Party representatives who are also fact witnesses may be present during opening submissions, but not during the testimony of fact witnesses testifying before him or her. Such Party representatives should testify first, to the extent possible.

18.14. The Tribunal shall, at all times, have complete control over the procedure for the examination of witnesses. In particular, but without limiting the foregoing, the Tribunal may in its discretion:

18.14.1. Limit or refuse the right of a party to examine a witness when it appears that a question has been addressed by other evidence or is irrelevant; or

18.14.2. Direct that a witness be recalled for further examination at any time.

18.15. The rules set forth above with respect to the examination of witnesses shall apply *mutatis mutandis* to the examination of party-appointed experts, except as otherwise indicated.

**19. Pre-Hearing Organizational Meetings**

*Arbitration Rule 13*

19.1. Any pre-hearing organizational meeting shall be held on the date indicated in **Annex A**. It shall be conducted by teleconference between the Tribunal, or its President, and the Parties in order to resolve and revisit any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription, the order of examination of witnesses and experts and the allocation of time between the Parties) in preparation for the hearing.

19.2. At a date to be determined by the Tribunal, and in any event prior to the date of the pre-hearing organizational meeting, the Parties shall submit to the Tribunal jointly – or, where they are unable to agree, separately – a proposal regarding the daily schedule for the hearing.

**20. Hearings**

*Arbitration Rules 20(1)(e) and 32; US-Peru TPA Article 10.21(2)*

20.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.

20.2. Hearings may be held, in whole or in part, in-person or by any other means of communication, including via videoconference, as determined by the Tribunal after consultation with the Parties should the Tribunal find that an in-person hearing would

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not be practicable or safe or for other good cause shown. An in-person hearing shall be held at a place to be determined in accordance with §10 *supra*.

- 20.3. The hearing shall take place on the date indicated in Annex A.
- 20.4. The Members of the Tribunal shall endeavor to reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 20.5. In principle, each Party will have an equal time allocation to examine witnesses and/or experts at the hearing, subject to adjustments if good cause is shown.
- 20.6. In accordance with Article 10.21(2) of the US-Peru TPA, hearings shall be open to the public and, in due course, the Tribunal “shall determine, in consultation with the disputing parties, the appropriate logistical arrangements”. However, “any disputing party [i.e. Claimant or Respondent] that intends to use information designated as protected information in a hearing shall so advise the tribunal. The tribunal shall make appropriate arrangements to protect the information from disclosure.”
- 20.7. Within four weeks of (a) the filing of the Counter-Memorial on the Merits and any Memorial on Preliminary Objections (in a non-bifurcated proceeding) or (b) the filing of the Counter-Memorial on Preliminary Objections (in a bifurcated proceeding), as the case may be, either Party may request the Tribunal to indicate whether the Parties will be required, at a date to be determined by the Tribunal, and in any event no later than two weeks prior to the hearing, to submit to the Tribunal jointly – or, where they are unable to agree, separately:
  - 20.7.1. a chronology of relevant facts in tabular form;
  - 20.7.2. a list and brief description of the individuals and entities who/which are part of the relevant factual background (“*dramatis personae*”); and
  - 20.7.3. a list of the substantive issues required to be determined by the Tribunal.

**21. Records of Hearings and Sessions**

*Arbitration Rules 13 and 20(1)(g)*

- 21.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the Parties and the Members of the Tribunal.
- 21.2. Verbatim transcripts in the procedural languages 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 using LiveNote or similar software and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.
- 21.3. The Parties shall endeavor 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.

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The agreed corrections shall be entered by the court reporter(s) in the transcripts (“Revised Transcripts”), subject to cost. The Tribunal shall decide upon any disagreement between the Parties, and any correction adopted by the Tribunal shall be entered by the court reporter(s) in the Revised Transcripts, subject to cost.

**22. Post-Hearing Memorials and Statements of Costs**

*Convention Article 44; Arbitration Rule 28(2)*

- 22.1. In consultation with the Parties, the Tribunal will determine at the end of the hearing whether there shall be post-hearing submissions. If so, the Tribunal will address the filing date, length, format, and content of the post-hearing submissions.
- 22.2. The Tribunal will issue directions on the Parties’ statements of costs at the end of the hearing.

**23. Transparency / Publication**

*Convention Article 48(5), Administrative and Financial Regulation 22, Arbitration Rule 48(4); US-Peru TPA Article 10.21*

- 23.1. In accordance with Article 10.21(4)(c) of the US-Peru TPA, any redactions to submissions must be submitted simultaneously with the Electronic Filing. Any objections to the scope of redactions must be filed with the Tribunal within 14 days of the submission. Any response to such objections must be filed with the Tribunal within seven days of the objection. The Tribunal will then promptly determine whether the redactions should be amended or removed.
- 23.2. If the Tribunal finds that information was improperly redacted under §23.1, within three business days of the Tribunal’s decision, and in accordance with Article 10.21(4)(d) of the US-Peru TPA, the Party that filed the redacted submission must either: (i) withdraw all or part of its submission containing the improperly redacted information; or (ii) agree to resubmit complete and redacted documents with corrected designations in accordance with the Tribunal’s determination, within the following seven business days.
- 23.3. In accordance with Rule 48(4) of the ICSID Rules, the Parties agree that after such documents have been made available to the public by Peru in accordance with Article 10.21 of the US-Peru TPA, and ICSID has been notified accordingly by Peru, ICSID may publish the redacted versions of: (a) the Notice of Intent; (b) the Notice of Arbitration; (c) pleadings, memorials, briefs, and *amicus* briefs (including U.S. submissions but excluding all supporting documentation) submitted to the Tribunal; (d) minutes or transcripts of hearings of the Tribunal, where available; and (e) orders, awards, and decisions of the Tribunal, as issued in this proceeding.

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**24. Submissions and Attendance to Hearing of the “non-disputing [TPA] Party”**

*US-Peru TPA Article 10.20(2)*

24.1. Pursuant to Article 10.20(2) of the US-Peru TPA, the United States of America (the non-disputing [TPA] Party) may make oral and written submissions to the Tribunal regarding the interpretation of the US-Peru TPA in accordance with the Procedural Calendar in Annex A.

**25. Amicus Curiae Submissions**

*Arbitration Rule 37(2); US-Peru TPA Article 10.20(3)*

25.1. Pursuant to Article 10.20(3) of the US-Peru TPA, and in accordance with the Procedural Calendar in Annex A, the Tribunal shall have the authority to accept and consider *amicus curiae* submissions from a person or entity that is not a disputing party. Each submission shall identify the author and any person or entity that has provided, or will provide, any financial or other assistance in preparing the submission.

25.2. If the Tribunal grants leave to *amicus curiae*, it will set an appropriate deadline for the filing of the amicus brief, taking into account the Procedural Calendar at **Annex A**.

**26. Data Protection**

26.1. The Parties shall comply with applicable data protection and privacy rules, where necessary by obtaining the consent of relevant individuals and requiring witnesses and experts to expressly agree in their relevant statements to the use of their personal data in this arbitration.

**27. Proposed Decision or Award on Liability**

*US-Peru TPA Article 10.20(9)*

27.1. In accordance with Article 10.20(9)(a) of the US-Peru TPA, at the request of a Party, the Tribunal shall, before issuing a decision or award on liability, transmit its proposed decision or award to the Parties and to the United States of America (the non-disputing TPA Party).

27.2. Within 60 days after the Tribunal transmits its proposed decision or award, the Parties may submit written comments to the Tribunal concerning any aspect of its proposed decision or award. The Tribunal shall consider any such comments and issue its decision or award not later than 45 days after the expiration of the 60-day comment period.

27.3. A Party must make the request for the transmission of the proposed decision or award either 30 days after any hearing on liability or 30 days after the Parties' last post-hearing brief, whichever is later.

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For and on behalf of the Tribunal,

A handwritten signature in black ink, appearing to read "Juliet Blanch", with a stylized, overlapping circular flourish at the beginning.

---

Ms. Juliet Blanch  
President of the Tribunal  
Date: 30 September 2021

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**Annex A**  
**Procedural Calendar**

**Scenario 1: No Preliminary Objections or Preliminary Objections without Request Bifurcation**

<b>Date</b>	<b>Lapse (in days)</b>	<b>Party / Tribunal</b>	<b>Description</b>
30 September 2021	–	TRIBUNAL	Procedural Order No. 1
Friday 11 March 2022	162 DAYS	CLAIMANT	Memorial
Monday 5 September 2022	178 DAYS	RESPONDENT	Counter-Memorial on the Merits [and Memorial on Preliminary Objections]
Monday 5 December 2022	91 DAYS FROM THE COUNTER-MEMORIAL	AMICUS CURIAE	Application for Leave by Amicus Curiae
Monday 19 December 2022	14 DAYS	CLAIMANT AND RESPONDENT	Responses to Application for Leave by <i>Amicus Curiae</i>
Monday 5 December 2022	91 DAYS FROM THE COUNTER-MEMORIAL	NON-DISPUTING PARTY	Written Submissions of the United States Pursuant to Article 10.20(2) of the US-Peru TPA
Friday 27 January 2023	144 DAYS FROM THE COUNTER-MEMORIAL	AMICUS CURIAE	Deadline for Written Submissions from any Amicus Curiae granted leave by the Tribunal
<b>Document Production<sup>6</sup></b>			
Thursday 20 October 2022	45 DAYS AFTER THE COUNTER-MEMORIAL	CLAIMANT AND RESPONDENT	Request for Production of Documents

<sup>6</sup> [The requests for production of documents have been inserted after the first exchange of pleadings on the merits for illustration purposes. The Parties are free to agree on a different timing for such requests. If the Parties fail to agree, the Tribunal can also decide otherwise.]

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<b>Date</b>	<b>Lapse (in days)</b>	<b>Party / Tribunal</b>	<b>Description</b>
Tuesday 8 November 2022	19 DAYS	CLAIMANT AND RESPONDENT	Responses and/or Objections to the Request for Production of Documents
Monday 28 November 2022	20 DAYS	CLAIMANT AND RESPONDENT	Reply to Objections to the Request for Production of Documents – Sent to Tribunal
Friday 16 December 2022	18 DAYS	TRIBUNAL	Decision on Production of Documents
Friday 13 January 2023	28 DAYS	CLAIMANT AND RESPONDENT	Production of Non-Contested Documents and Documents Ordered by the Tribunal
Thursday 13 April 2023	90 DAYS [220 DAYS FROM THE COUNTER- MEMORIAL]	CLAIMANT	Reply on the Merits [and Counter-Memorial on Preliminary Objections]  (including responses to US Submissions and any amicus briefs)
Monday 11 September 2023	151 DAYS	RESPONDENT	Rejoinder on the Merits [and Reply on Preliminary Objections] (including responses to US Submissions and any amicus briefs)
Friday 10 November 2023	60 DAYS	CLAIMANT	[Rejoinder on Preliminary Objections]
	7 DAYS BEFORE THE PRE- HEARING ORGANIZATIONAL MEETING	CLAIMANT AND RESPONDENT	Witness/Expert Notification
	30 DAYS BEFORE THE HEARING	ALL	Pre-Hearing Organizational Meeting

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<b>Date</b>	<b>Lapse (in days)</b>	<b>Party / Tribunal</b>	<b>Description</b>
19 February 2024 – 1 March 2024 [TWO WEEKS]	101 DAYS AFTER THE LAST WRITTEN SUBMISSION	ALL	Hearing

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**Scenario 2: Preliminary Objections with Request for Bifurcation**

<b>Date</b>	<b>Lapse (# days)</b>	<b>Party / Tribunal</b>	<b>Description</b>
30 September 2021	–	TRIBUNAL	Procedural Order No. 1
Friday 11 March 2022	162 DAYS	CLAIMANT	Memorial
Tuesday 10 May 2022	60 DAYS	RESPONDENT	Request for Bifurcation
Tuesday 24 May 2022	14 DAYS	CLAIMANT	Observations on Request for Bifurcation
Friday 3 June 2022	10 DAYS	RESPONDENT	Rebuttal on Observations
Monday 13 June 2022	10 DAYS	CLAIMANT	Surrebuttal on Rebuttal
		TRIBUNAL	Decision on Request for Bifurcation

2.1. If Bifurcation Granted, the procedural calendar for the bifurcated phase will be fixed by the Tribunal in accordance with the Arbitration Rules.

2.2 If Bifurcation Denied

The following timetable shall apply in the event the Tribunal decides to join the preliminary objections to the merits:

[The Parties propose to finalize the dates in this scenario as needed.]

<b>Date</b>	<b>Lapse (# days)</b>	<b>Party / Tribunal</b>	<b>Description</b>
	120 DAYS FROM THE TRIBUNAL'S DECISION ON BIFURCATION	RESPONDENT	Counter-Memorial on the Merits and Memorial on Preliminary Objections
	90 DAYS FROM THE COUNTER-MEMORIAL	AMICUS CURIAE	Application for Leave by Amicus Curiae

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<b>Date</b>	<b>Lapse (# days)</b>	<b>Party / Tribunal</b>	<b>Description</b>
	14 DAYS	CLAIMANT AND RESPONDENT	Responses to Application for Leave by <i>Amicus Curiae</i>
	90 DAYS FROM THE COUNTER-MEMORIAL	NON-DISPUTING PARTY	Written Submissions of the United States Pursuant to Article 10.20(2) of the US-Peru TPA
	140 DAYS FROM THE COUNTER-MEMORIAL	AMICUS CURIAE	Deadline for Written Submissions from any Amicus Curiae granted leave by the Tribunal
Document Production <sup>7</sup>			
	45 DAYS FROM THE COUNTER-MEMORIAL	CLAIMANT AND RESPONDENT	Request for Production of Documents
	19 DAYS	CLAIMANT AND RESPONDENT	Responses and/or Objections to the Request for Production of Documents
	19 DAYS	CLAIMANT AND RESPONDENT	Reply to Objections to the Request for Production of Documents – Sent to Tribunal
	19 DAYS	TRIBUNAL	Decision on Production of Documents
	14 DAYS	CLAIMANT AND RESPONDENT	Production of Non-Contested Documents and Documents Ordered by the Tribunal
	90 DAYS [220 DAYS FROM THE COUNTER-MEMORIAL]	CLAIMANT	Reply on the Merits and Counter-Memorial on Preliminary Objections (including responses to US Submissions and any amicus briefs)

<sup>7</sup> [The requests for production of documents have been inserted after the first exchange of pleadings on the merits for illustration purposes. The Parties are free to agree on a different timing for such requests. If the Parties fail to agree, the Tribunal can also decide otherwise.]

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<b>Date</b>	<b>Lapse (# days)</b>	<b>Party / Tribunal</b>	<b>Description</b>
	150 DAYS	RESPONDENT	Rejoinder on the Merits and Reply on Preliminary Objections (including responses to US Submissions and any amicus briefs)
	60 DAYS	CLAIMANT	Rejoinder on Preliminary Objections
	7 DAYS BEFORE THE PRE-HEARING ORGANIZATIONAL MEETING	CLAIMANT AND RESPONDENT	Witness/Expert Notification
	30 DAYS BEFORE THE HEARING	ALL	Pre-Hearing Organizational Meeting
[TWO WEEKS]	100 DAYS AFTER THE LAST WRITTEN SUBMISSION	ALL	Hearing on Preliminary Objections and Merits

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**Annex B**  
**Electronic File Naming Guidelines**

Please follow these guidelines when naming electronic files, and for the accompanying consolidated 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 shall be reflected both (i) in the name of each individual electronic file and (ii) in the consolidated Index (which shall be attached to each submission).

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
MAIN PLEADINGS	<b>Title of Pleading–LANGUAGE</b>
	<i>Memorial on Jurisdiction–ENG</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	<b>C–####–LANGUAGE</b>
	<b>R–####–LANGUAGE</b>
	To be produced sequentially throughout the case.
	<b>CLAIMANT’S FACTUAL EXHIBITS</b>
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	<b>RESPONDENT’S FACTUAL EXHIBITS</b>
	<i>R-0001-ENG</i>
	<i>R-0002-SPA</i>
Legal Authorities	<b>CL–####–LANGUAGE</b>
	<b>RL–####–LANGUAGE</b>
	To be produced sequentially throughout the case.
	<b>CLAIMANT’S LEGAL AUTHORITIES</b>
	<i>CL-0001-ENG</i>
	<i>CL-0002-SPA</i>
	<b>RESPONDENT’S LEGAL AUTHORITIES</b>
	<i>RL-0001-ENG</i>
	<i>RL-0002-SPA</i>
Witness Statements	<b>Witness Statement–Name of Witness–Name of Submission–LANGUAGE</b>
	<i>Witness Statement–Maria Jones–Memorial on Jurisdiction–SPA</i>
	<i>Witness Statement–Maria Jones–Reply on Jurisdiction–[Second Statement]–ENG</i>
Expert Reports	<b>Expert Report–Name of Expert–Type–Name of Submission–LANGUAGE</b>
	<i>Expert Report–Lucia Smith–Valuation–Memorial on Quantum–ENG</i>
	<i>Expert Report–Lucia Smith–Valuation–Reply on Quantum–[Second Report]–ENG</i>

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Legal Opinions	<b>Legal Opinion-Name of Expert-Name of Submission-LANGUAGE</b>
	<i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits-ENG</i>
	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]-SPA</i>
Exhibits to Witness Statements, Expert Reports, Legal Opinions	<b>WITNESS/EXPERT INITIALS-####-LANGUAGE</b>
	For exhibits filed with the Witness Statement of [Maria Jones]
	<i>MJ-0001-ENG</i>
	<i>MJ-0002-SPA</i>
	For exhibits filed with the Expert Report of [Lucia Smith]
	<i>LS-0001-ENG</i>
	<i>LS-0002-SPA</i>
	For exhibits filed with the Legal Opinion of [Tom Kaine]
	<i>TK-0001-ENG</i>
<i>TK-0002-SPA</i>	
<b>INDICES</b> (Consolidated Index)	<b>Index of Exhibits-C-#### to C-####</b>
	<i>Index of Exhibits-C-0001 to C-0023</i>
	<b>Index of Legal Authorities-RL-#### to RL-####</b>
	<i>Index of Legal Authorities-RL-0001 to RL-0023</i>
<b>OTHER APPLICATIONS</b>	<b>Name of Application-[Party]-LANGUAGE</b>
	<i>Preliminary Objections under Rule 41(5)-[Respondent]-SPA</i>
	<i>Request for Bifurcation-[Respondent]-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-[Respondent]-FR</i>
	<i>Request for Discontinuance-[Claimant]-ENG</i>
	<i>Post-Hearing Brief-[Claimant]-SPA</i>
	<i>Costs Submission-[Respondent]-ENG</i>
<i>Observations to Request for [XX]-[Claimant]-SPA</i>	

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**Annex C**  
**Redfern Schedule**

1	2	3		4	5	6
Request No.	Documents or Category of Documents Requested [Requesting Party]	Relevance and Materiality [Requesting Party]		Responses / Objections to Document Requests [Requested Party]	Replies to Objections to Document Requests [Requesting Party]	Tribunal's Decisions
		Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports	Comments			