

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**TC Energy Corporation and TransCanada Pipelines Limited**

**v.**

**United States of America**

**(ICSID Case No. ARB/21/63)**

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**PROCEDURAL ORDER NO. 1**

***Members of the Tribunal***

Mr. Alexis Mourre, President of the Tribunal

Mr. Henri C. Alvarez, Arbitrator

Prof. John R. Crook, Arbitrator

***Secretary of the Tribunal***

Mr. Gonzalo Flores

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DATE: December 12, 2022

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**Introduction**

The first session of the Tribunal was held on Thursday, December 1, 2022, at 10am (EST), by video conference. The session was adjourned at 11:45am (EST).

Audio and video recording of the session was made and deposited in the archives of ICSID. The recording was distributed to the Members of the Tribunal and the parties.

Participating in the conference were:

Members of the Tribunal:

Alexis Mourre, President of the Tribunal  
Henri C. Alvarez, Arbitrator  
John R. Crook, Arbitrator

ICSID Secretariat:

Gonzalo Flores, Secretary of the Tribunal, ICSID

Assistant to the Tribunal:

Ms. Valentine Chessa

Attending on behalf of the Claimants:

Victoria Marselle, TC Energy  
Matthew Maher, TC Energy  
James P. White, JPW Energy Law PLLC  
James E. Mendenhall, Sidley Austin LLP  
Jennifer Haworth McCandless, Sidley Austin LLP  
Eric M. Solovy, Sidley Austin LLP  
Alex L. Young, Sidley Austin LLP

Attending on behalf of the Respondent:

Lisa J. Grosh, Assistant Legal Adviser, U.S. Department of State  
John D. Daley, Deputy Assistant Legal Adviser, U.S. Department of State  
Nicole C. Thornton, Chief of Investment Arbitration, U.S. Department of State  
Nathaniel E. Jedrey, Attorney-Adviser, U.S. Department of State  
Melinda E. Kuritzky, Attorney-Adviser, U.S. Department of State  
Mary T. Muino, Attorney-Adviser, U.S. Department of State  
Alvaro J. Peralta, Attorney-Adviser, U.S. Department of State  
David J. Stute, Attorney-Adviser, U.S. Department of State  
Isaac D. Webb, Attorney-Adviser, U.S. Department of State

The Tribunal and the parties considered the following:

- The Draft Procedural Order circulated by the Tribunal Secretary on October 17, 2022;

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- The parties' comments on the Draft Procedural Order received on November 22, 2022, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

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

**Order**

Pursuant to ICSID Arbitration Rules (2006) 19 and 20, this first Procedural Order sets out the Procedural Rules that govern this arbitration. The timetable is attached as **Annex B**.

1. Applicable Arbitration Rules

*Convention Article 44; NAFTA Articles 1120(2) and 1131*

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of April 10, 2006, except to the extent that they are modified by Section B of NAFTA Chapter Eleven.

2. Constitution of the Tribunal and Tribunal Members' Declarations

*Arbitration Rule 6; NAFTA Articles 1123 and 1124*

- 2.1. The Tribunal was constituted on September 21, 2022, in accordance with Articles 1123 and 1124 of NAFTA, 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 September 21, 2022.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case.

3. Fees and Expenses of Tribunal Members

*Convention Article 60; Administrative and Financial Regulations 14 and 15; ICSID Schedule of Fees; ICSID Memorandum on Fees and Expenses*

- 3.1. The fees and expenses of each Tribunal Member 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.

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- 3.2. Pursuant to ICSID Administrative and Financial Regulations 14 and 15, under the current Memorandum on Fees and Expenses, each Tribunal Member is entitled to:
  - 3.2.1. USD500 per hour of work performed in connection with the proceeding, including each hour spent participating in hearings, sessions and meetings;
  - 3.2.2. USD900 as a *per diem* for each day spent away from their city of residence while traveling in connection with a proceeding when overnight lodging is required. This covers all personal expenses, including lodging, tax on lodging, service charges, meals, gratuities, in-city transportation, laundry, personal communications and internet;
  - 3.2.3. USD250 for each hour of travel to and from a hearing. For work performed during travel, Members may charge the hourly rate for work (USD500) in lieu of the hourly rate for travel. For day trips not requiring overnight lodging, Members are also entitled to a *per diem* of USD200; and
  - 3.2.4. reimbursement for the costs of air and ground transportation to and from the city where the hearing, session or meeting is held.
- 3.3. Non-refundable expenses incurred due to postponement or cancellation of a hearing shall be reimbursed, e.g., the lesser of (a) actual non-refundable cost or (b) USD900 per diem.
- 3.4. Each Tribunal Member shall submit detailed claims for fees and expenses to the ICSID Secretariat on a quarterly basis or more frequently. Claims for work performed must be declared in a detailed, itemized format and appended to the Claim for Fees and Expenses form.

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.

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- 5.3. The Tribunal will draft and issue all rulings, including the Award, within a reasonable time. If an Award has not been issued within 6 months, or other ruling within 1 month after the final submission on a particular matter, the Tribunal will provide the parties with status updates every 4 weeks for awards and 1 week for other rulings.
- 5.4. The President is authorized to sign Procedural Orders on behalf of the Tribunal.
- 5.5. The Tribunal's rulings on procedural matters may be communicated to the parties by the Tribunal Secretary electronically by letter or email.
- 5.6. Any ruling of the Tribunal, including certified copies 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.
- 6.3. The parties agree that a time limit shall be satisfied if a procedural step is taken or a document is received by the ICSID Secretariat on the relevant date, or on the subsequent business day if the date falls on a Saturday or Sunday. A time limit shall be computed from the date on which the limit is announced, with the day of such announcement being excluded from the calculation. Consistent with §14.9, time limits are satisfied if undertaken by a party by midnight, Washington, D.C. time, on the relevant date.

7. Secretary of the Tribunal

*Administrative and Financial Regulation 28*

- 7.1. The Tribunal Secretary is Gonzalo Flores, Deputy Secretary-General, 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:

Mr. Gonzalo Flores  
ICSID

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MSN C3-300  
1818 H Street, N.W.  
Washington, D.C. 20433  
U.S.A.  
Tel.: + 1 (202) 458-1505  
Fax: + 1 (202) 522-2615 / 2027  
Email: [gflores@worldbank.org](mailto:gflores@worldbank.org)

Paralegal name: Marisela Vázquez Marrero  
Paralegal email: [mvazquezmarrero@worldbank.org](mailto:mvazquezmarrero@worldbank.org)

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

Mr. Gonzalo Flores  
ICSID  
1225 Connecticut Ave. N.W.  
(World Bank C Building)  
3<sup>rd</sup> Floor  
Washington, D.C. 20036  
U.S.A.  
Tel.: +1 (202) 458-1534

8. Assistant to Tribunal

- 8.1. By communication of October 5, 2022, the Tribunal conveyed to the parties its desire to appoint an assistant, with the understanding that such appointment would benefit the overall cost and time efficiency of the proceedings. The Tribunal proposed the appointment of Ms. Valentine Chessa, a dual national of France and Italy, as assistant to the Tribunal. Ms. Chessa's *curriculum vitae* was distributed to the parties on that same date.
- 8.2. By same communication, it was explained that:
- 8.2.1. The assistant would not duplicate the work done by the ICSID Secretary and would undertake only such specific tasks as assigned by the Tribunal or the President, which may include: assisting the Tribunal or the President in the review of the evidence and of the issues in dispute, including through the review of submissions and evidence, preparation of summaries and/or memoranda; assisting the Tribunal or the President in the preparation and communication of the Tribunal's decisions to the parties on issues of procedure and substance, including by preparing initial drafts of procedural orders and award, under the direction and supervision of the President; providing other support to the Tribunal and the President, at any time, especially during hearings and deliberations, which the assistant may attend;

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- 8.2.2. Under no circumstances would the Tribunal or the President delegate any decision-making functions to the assistant;
- 8.2.3. The assistant would work at all times under the specific instructions and continuous control and supervision of the President; and
- 8.2.4. The assistant would be subject to the same independence, impartiality and confidentiality obligations as the Members of the Tribunal and would sign a declaration to that effect, which would be distributed to the parties by the ICSID Secretariat.
- 8.3. By emails of October 14, 2022, the parties consented to the appointment of Ms. Chessa as Assistant to the Tribunal, subject to certain understandings. On the same day, the President of the Tribunal confirmed the following understandings with respect to Ms. Chessa's appointment:

*The Arbitral Tribunal is happy to confirm that the Assistant will in no circumstances take on tasks that would be tantamount to an impermissible delegation of its functions. Specifically, the Tribunal confirms that the Assistant will only undertake such specific tasks that may be assigned to her by the Tribunal and that, when requested to assist in the preparation of initial drafts of procedural orders, or initial drafts of portions of other orders, decisions, or awards, her work will indeed be limited to drafting the procedural history or summaries of the facts only, and in any case under the Tribunal's direction and supervision. As a consequence, the preparation of portions of such drafts relating to the Tribunal's reasoning and decisions, be it on matters of substance or of procedure, will be done by the arbitrators themselves.*

*I also confirm that the communication of the Tribunal's decisions or orders to the parties will be done by the Secretariat or, in case of urgency, by the President on behalf of the Tribunal.*

*Finally, I take note of the United States request that the Assistant's fees be disclosed, and that the Assistant file separate claims for fees and expenses to be reimbursed by the Centre in accordance with ICSID's Administrative and Financial Regulations, and that these fees and expenses be disclosed in the financial statements of the case.*

- 8.4. The parties also agreed that Ms. Chessa would receive: (i) USD 150 for each hour of work performed in connection with the case; (ii) actual expenses of overnight lodging and other charges when traveling to an ICSID hearing, session or meeting held away from her residence up to but not exceeding USD900 per diem; and (iii) and reimbursements for the costs of air (at one class above economy class) and ground transportation to and from the city where the hearing, session or meeting is held.
- 8.5. On October 18, 2022, Ms. Chessa accepted her appointment as assistant to the Tribunal and submitted a declaration confirming that she will "remain

throughout the present proceedings fully impartial and independent from the parties and their counsel,” which was distributed to the parties by the ICSID Secretariat.

9. Representation of the Parties  
*Arbitration Rule 18*

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

For Claimants

Mr. James E. Mendenhall  
Ms. Jennifer Haworth McCandless  
Mr. Eric M. Solovy  
Ms. Riana M. Terney  
Mr. Alex L. Young  
SIDLEY AUSTIN LLP  
1501 K Street, NW  
Washington, D.C., USA 20005  
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[j.haworth.mccandless@sidley.com](mailto:j.haworth.mccandless@sidley.com)  
[esolovy@sidley.com](mailto:esolovy@sidley.com)  
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[ayoung@sidley.com](mailto:ayoung@sidley.com)

For Respondent

Ms. Lisa J. Grosh  
Mr. John D. Daley  
Ms. Nicole C. Thornton  
Ms. Julia H. Brower  
Mr. Nathaniel E. Jedrey  
Ms. Melinda E. Kuritzky  
Ms. Mary T. Muino  
Mr. Alvaro J. Peralta  
Mr. David J. Stute  
Mr. Isaac D. Webb  
Office of International Claims  
and Investment Disputes  
Office of the Legal Adviser  
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Washington, D.C., USA, 20520  
Tel. 202-776-8356  
Emails:  
[groshlj@state.gov](mailto:groshlj@state.gov)  
[daleyjd@state.gov](mailto:daleyjd@state.gov)  
[thorntonnc@state.gov](mailto:thorntonnc@state.gov)  
[browerjh@state.gov](mailto:browerjh@state.gov)  
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[kuritzkyme@state.gov](mailto:kuritzkyme@state.gov)  
[muinomt@state.gov](mailto:muinomt@state.gov)  
[peraltaaj@state.gov](mailto:peraltaaj@state.gov)  
[stuted@state.gov](mailto:stuted@state.gov)  
[webbid@state.gov](mailto:webbid@state.gov)

10. Apportionment of Costs and Advance Payments to ICSID

*Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 28*

- 10.1. 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.
- 10.2. By letter of September 22, 2022, ICSID requested that each party pay USD250,000 (two hundred and fifty thousand United States dollars) to cover the initial costs of the proceeding. ICSID received Claimants' payment on October 4, 2022, and the Respondent's payment on September 29, 2022.
- 10.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

11. Place of Proceeding

*Convention Articles 62 and 63; Arbitration Rule 13(3); Arbitration Rule 13(3); NAFTA Article 1130*

- 11.1. Washington, D.C. shall be the place of the proceeding.
- 11.2. The Tribunal may hold hearings in person at the place of the proceeding or, if the parties so agree, any other place that it considers appropriate. The Tribunal may hold hearings by any other means of communication as determined by the Tribunal after consultation with the parties.
- 11.3. The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.
- 11.4. The Award shall be deemed to be made at the place of the arbitration, regardless of where it is signed.

12. Procedural Language, Translation and Interpretation

*Arbitration Rules 20(1)(b) and 22*

- 12.1. English is the procedural language of the arbitration.
- 12.2. Documents filed in any other language must be accompanied by a translation into English.
- 12.3. If the 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.

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- 12.4. Translations need not be certified unless there is a dispute as to the content of a translation provided and the party disputing the translation specifically requests a certified version.
- 12.5. Documents exchanged between the parties in a language other than English under §16 below (Production of Documents) need not be translated.
- 12.6. The testimony of a witness called for examination during the hearing who prefers to give evidence other than in the English language shall be interpreted, simultaneously if possible.
- 12.7. The parties will notify the Tribunal, as soon as possible, and no later than at the pre-hearing organizational meeting (see §20 below), which witnesses or experts (if any) require interpretation.
- 12.8. The costs of interpretation 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.

13. Routing of Communications

- 13.1. The ICSID Secretariat shall be the channel of written communications between the parties and the Tribunal. In case of urgency, the President may transmit communications on behalf of the Tribunal.
- 13.2. Each party's written communications shall be transmitted by email or other electronic means to the opposing party and to the Tribunal Secretary, who shall send them to the Tribunal.
- 13.3. Electronic versions of communications ordered by the Tribunal to be filed simultaneously shall be transmitted to the Tribunal Secretary only, who shall send them to the opposing party and the Tribunal.
- 13.4. The Tribunal Secretary shall not be copied on direct communications between the parties when such communications are not intended to be transmitted to the Tribunal.

14. Number of Copies and Method of Filing of Parties' Pleadings

*Arbitration Rules 20(1)(d) and 23*

- 14.1. By the relevant filing date, the parties shall submit by email to the Tribunal Secretary and the opposing party an electronic version of the pleading with

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witness statements, expert reports and an index of all supporting documentation (the “Electronic Email Filing”).<sup>1</sup>

- 14.2. Within three (3) business days of the Electronic Email Filing, the parties shall upload the pleading with all the supporting documentation (*i.e.*, all witness statements, expert reports, exhibits, legal authorities) and updated index to the file sharing platform that has been created by ICSID for purposes of this case (the “Electronic Platform Filing”).
- 14.3. Within three (3) weeks of the Electronic Platform Filing, the parties shall also upload:
  - 14.3.1. Redacted versions of any documents designated confidential pursuant to the section on confidentiality; and
  - 14.3.2. English translations of any non-English documents, pursuant to §12.2 above.
- 14.4. Within three (3) business days of the filing of redacted versions and translations, the parties shall courier to each member of the Tribunal, at the address(es) indicated at §14.7 below, and to opposing counsel at the address(es) indicated at §9.19.1 above one hard copy of their pleading, expert reports, and witness statements in A-5 format, printed double sided.
- 14.5. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (*i.e.*, OCR PDF or Word).
- 14.6. 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 will provide the Secretariat and the Members of the Tribunal a hyperlink to a folder containing an electronic copy of the entire case file (including pleadings, witness statements, expert reports, exhibits, legal authorities and Tribunal decisions and orders to date) with a consolidated hyperlinked index of all documents.
- 14.7. The addresses of the Tribunal Members are as follows:

Mr. Alexis Mourre  
52 rue La Boétie  
75008 Paris  
France  
Tel.: +33 6 13 21 37 36

Mr. Henri C. Alvarez  
Vancouver Arbitration  
Chambers  
34424 Rockridge Place,  
Mission, B.C., V2V 7N3  
Canada  
Tel. +1 604 506 7700

Mr. John R. Crook  
10610 Belfast Place,  
Potomac MD 20854  
United States of America  
+1 301 765 0333

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<sup>1</sup> Please note that the World Bank server does not accept emails larger than 25 MB.

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- 14.8. The official date of receipt of a pleading or communication shall be the day on which the electronic file is sent to the Tribunal Secretary by email.
- 14.9. A filing shall be deemed timely if sent by a party by midnight, Washington, D.C. time, on the relevant date.

15. Number and Sequence of Pleadings

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

- 15.1. After consulting with the parties, the Tribunal has adopted the Procedural Calendar which is set out in **Annex B**.
- 15.2. The parties may at any stage of the proceedings seek further directions from the Tribunal regarding procedural steps relating to and/or in addition to those set out in the Procedural Calendar.

16. Production of Documents

*Convention Article 43(a); Arbitration Rules 24 and 33-34*

- 16.1. The parties agree to discuss whether document production is necessary (and, if so, the technical aspects of the production) after the first round of pleadings on the merits. A model of the Stern Schedule which is referred in the procedural Calendar is attached as **Annex C**.
- 16.2. If the parties agree to conduct a documents production process, the Tribunal may determine the procedure to be followed in consultation with the parties. The Tribunal and the parties may in such case use as a guideline in the document production process Articles 3 and 9 of the IBA Rules on the Taking of Evidence (2020).

17. Submission of Documents

*Convention Article 44; Arbitration Rule 24*

- 17.1. The Memorial and Counter-Memorial shall be accompanied by all the documentary evidence, as well as witness statements and expert reports, relied upon by the parties, including exhibits and legal authorities. Further responsive documentary evidence, as well as responsive witness statements and expert reports, relied upon by the parties in rebuttal shall be submitted with the Reply and Rejoinder.
- 17.2. The documents shall be submitted in the manner and form set forth in §14 above.

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- 17.3. Neither party shall be permitted to submit additional or responsive documents after the filing of its respective last pleading, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other party.
  - 17.3.1. 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, nor may that party quote or paraphrase from the documents. In addition, the non-moving party shall have an opportunity to provide comments on the request to add the documents to the record.
  - 17.3.2. 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.
- 17.4. The Tribunal may call upon the parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 34(2).
- 17.5. The documents shall be submitted in the following form:
  - 17.5.1. The number of each Exhibit containing a document produced by Claimant shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities etc. The number for each Exhibit containing a document produced by Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities etc.
  - 17.5.2. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-0001” and “R-0001,” and “CL-001” and “RL-001” respectively. The number of the exhibit or legal authority shall appear on the first page of the document and shall be incorporated into the file name in accordance with §17.5.3.
  - 17.5.3. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
  - 17.5.4. The parties shall number the paragraphs of their written pleadings consecutively.
- 17.6. 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.
- 17.7. The parties shall file all documents only once by submitting them with their pleadings. Documents need not be resubmitted with witness statements even if referred to in such statements.

17.8. 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 and indicate on each demonstrative exhibit the exhibit 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 format to the other party, the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) (if any) prior to their use at the hearing at a time to be decided at the pre-hearing organizational meeting.

18. Witness Statements and Expert Reports

*Convention Article 43(a); Arbitration Rule 24*

- 18.1. Witness statements and expert reports shall be filed together with the parties' pleadings.
- 18.2. Neither party shall be permitted to submit any testimony that has not been filed with the pleadings, 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 §17.3).
- 18.3. Interactions with witnesses and experts shall be in accordance with the [IBA Guidelines on Party Representation in International Arbitration](#) (2013).
- 18.4. Each witness statement and expert report shall state: (1) the name of the witness or expert; (2) his or her relationship to, and interest in, any of the parties in this arbitration; (3) his or her affiliation and connection to the matters in dispute (4) an affirmation of the truth of the witness statement or expert report; and (5) date and place of signature.
- 18.5. Each expert report shall also include a statement of qualifications of the expert in the claimed area of expertise. Each expert report shall attach a current curriculum vitae evidencing such qualifications.
- 18.6. 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' pleadings, in which case reference to such exhibits shall be sufficient. The procedural rules set out in the above Section 17 shall apply by analogy to the evidence of experts.
- 18.7. Each witness statement and expert report shall be signed and dated, either by hand or electronically, by the witness or expert.

19. Examination of Witnesses and Experts

*Arbitration Rules 35 and 36*

- 19.1. A party may be called upon by the opposing party to produce at the hearing for cross-examination any factual or expert witness whose written testimony has been advanced with the pleadings. The fact that a party does not call for cross-examination a witness or expert whose statement has been submitted with the other party's pleadings does not mean that it accepts the substance or content of the statement or expert opinion.
- 19.2. If a fact or expert witness who has submitted written testimony is called upon to testify by the opposing party and fails to do so without justification, the Tribunal may, after hearing the parties, strike that witness's written testimony from the record (or may attach such weight to the written testimony as the Tribunal deems appropriate).
- 19.3. A party may call upon its own fact or expert witnesses (who submitted written testimony with the pleadings) to testify if not called upon by the opposing party. In such circumstance, the opposing party shall have a right of cross-examination of any such witness.
- 19.4. Unless agreed otherwise by the parties, the scope of the direct examination of fact witnesses shall be limited to a confirmation of their statement and to relevant facts that may have arisen since their last statement. Cross-examination of witnesses shall bear on any question that is relevant to the arbitration and within the personal knowledge of the witness. Re-direct shall be limited to the scope of the cross. There shall not be any re-cross, save with leave of the Arbitral Tribunal. The parties may directly examine experts within available time, or experts may make a presentation in lieu of direct examination.
- 19.5. The parties shall notify the opposing party which witness and experts it intends to call for cross-examination. On the date set forth in **Annex B**, each party shall notify the other party which of its witnesses or experts it will call for direct examination at the hearing. On the date provided in **Annex B**, the parties will send to the Tribunal a consolidated list of the witnesses and experts that will be called to testify. Shortly after the parties' notifications, the Tribunal will indicate which witnesses or experts, not called by the parties, it wishes to question, if any.
- 19.6. Unless agreed otherwise (and with the following exception), prior to a fact witness's testimony, such witness shall not be present in the hearing room during the opening statement or the hearing of oral testimony, nor shall he or she read any transcript of any oral testimony, prior to his or her examination. Notwithstanding the foregoing, one party representative from each party who is also a factual witness may be present in the hearing room during opening

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statements. All witnesses shall be permitted to attend the hearing after the completion of their testimony. Experts shall be allowed in the hearing room at any time. A witness or expert, however, should remain sequestered during the hearing, once his or her testimony has begun through the conclusion of his or her testimony.

- 19.7. Examination by videoconference may be permitted for justified reasons at the discretion of the Tribunal, upon consultation with the parties.
- 19.8. Other matters regarding hearings shall be agreed upon by the parties or decided by the Tribunal at a later stage.

20. Pre-Hearing Organizational Meetings

*Arbitration Rule 13*

- 20.1. A pre-hearing organizational meeting shall be held on a date determined by the Tribunal after consultation with the parties. It shall comprise a teleconference or videoconference between the Tribunal, or its President, and the parties and should resolve any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.
- 20.2. At a date to be determined by the Tribunal, and in any event no later than the date of the pre-hearing conference, the parties shall submit to the Tribunal jointly – or, where they are unable to agree, separately – a proposal regarding a daily schedule for the hearing.

21. Hearings

*Arbitration Rules 20(1)(e) and 32*

- 21.1. Hearings before the Tribunal other than procedural or organizational meetings shall be subject to the rules set out in this Section.
- 21.2. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments. No new evidence may be presented at the hearing except in accordance with §§17.3 and 18.2.
- 21.3. The hearing may be held in-person or by any other means of communication as determined by the Tribunal after consultation with the parties. An in-person hearing shall be held at the place of the proceedings or a place to be determined in accordance with §11.2 above.

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- 21.4. The Members of the Tribunal shall reserve one day immediately after the hearing or shortly thereafter to determine the next steps and to hold preliminary deliberations. Deliberations may take place in person or by tele or videoconference.
- 21.5. The Arbitral Tribunal will have discretion to decide, before any hearing and after consulting the parties, on the parties' allocation of time, which shall be respectful of the overriding principle of equal treatment. The Arbitral Tribunal may, if appropriate, decide that the parties' time will be counted based on a chess-clock.
- 21.6. In accordance with ICSID Arbitration Rule 32(2), all hearings in this case will be closed to the public, unless the parties otherwise agree.

22. Records of Hearings and Sessions

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

- 22.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the parties and the Tribunal Members.
- 22.2. Verbatim transcripts in the procedural language 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* and electronic transcripts shall be provided to the parties and the Tribunal on a same-day basis.
- 22.3. The parties shall agree on any corrections to the transcripts within 45 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the court reporter in the transcripts ("revised transcripts"). The Tribunal shall decide upon any disagreement between the parties and any correction adopted by the Tribunal shall be entered by the court reporter in the revised transcripts.

23. Post-Hearing Memorials and Statements of Costs

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

- 23.1. The Tribunal will determine whether post-hearing memorials are necessary at a later date. To the extent such submissions are deemed necessary, they may not (absent leave of the Tribunal) contain new evidence, or be accompanied by new exhibits, witness statements, or expert reports. Such submissions (if deemed necessary) shall also have a page-limit that the Tribunal will determine at a later date.

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- 23.2. The Tribunal will also determine the specifics of any cost's submissions at a later date. In principle, however, such submissions may list only expenses and may not contain argumentation by the parties.

24. Publication

*Convention Article 48(5); Arbitration Rule 48(4); NAFTA Article 1137(.4) and Annex 1137(.4)*

- 24.1. ICSID shall publish public versions of all pleadings (exclusive of documentary evidence, witness statements and expert reports), procedural orders, decisions, and awards related to the proceeding. Subject to the procedures in §24.2 for the redaction of confidential information, ICSID shall publish all such documents within 10 business days of their filing or distribution to the parties.
- 24.2. In the event that any decision, order, or award of the Tribunal contains or refers to information designated as confidential in accordance with the parties' Confidentiality Agreement referenced in §29 and Order, the Tribunal shall prepare, or direct the party or parties who designated the information in question as confidential to prepare for its approval upon consultation with the other party, if any, a redacted copy of the decision. Unless otherwise directed by the Tribunal, such redacted version shall be furnished to the Tribunal for approval within 45 days. As regards the Award, the Tribunal shall be competent to approve the same without prejudice to Articles 49 to 52 of the Arbitration Rules.

25. Data Privacy

- 25.1. The Members of the Tribunal, the parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this arbitration proceeding.
- 25.2. The Members of the Tribunal, the parties and their representatives agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in the arbitration proceeding, where necessary. Should compliance with applicable law require action from another participant in the arbitration proceeding, the parties are invited to bring that to the attention of that other participant and/or to apply to the Arbitral Tribunal for specific data protection measures to be put in place.

26. Non disputing NAFTA Parties

*NAFTA Articles 1128 and 1129*

- 26.1. Non-Disputing NAFTA Parties (NDTPs) may make submissions to the Tribunal within the meaning of NAFTA Article 1128 by the date indicated in **Annex B**.

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Pursuant to NAFTA Article 1128, these submissions may only comment on questions of interpretation of NAFTA. With leave of the Tribunal, NDTPs may make additional submissions on questions of interpretation of NAFTA.

- 26.2. Pursuant to NAFTA Articles 1127, 1128 and 1129, Non-Disputing NAFTA Parties may attend oral hearings, and are entitled to receive a copy of confidential versions of transcripts, pleadings and exhibits, including witness statements and expert reports. Non-Disputing NAFTA Parties shall, pursuant to NAFTA Article 1129, treat all information received from the Respondent as if they were a party to the arbitration, notably in respect of protection of confidential information. As such, they are required to adhere to any Confidentiality Agreement entered into between the parties pursuant to §29.1.
- 26.3. The parties shall have the opportunity to comment on any Article 1128 submission only by the date set forth in **Annex B** or as otherwise set by the Tribunal.

27. Other Non-Disputing Parties

- 27.1. The Tribunal shall consider any application for permission to file a submission in this arbitration by an intending Amicus, in consultation with the parties to this arbitration, in accordance with the “Statement of the Free Trade Commission on non-disputing party participation.” The applications (and any allowed submissions) shall be filed by the date set forth in **Annex B**.
- 27.2. The parties to this arbitration shall have the opportunity to comment on any non-disputing party submission by the date set forth in **Annex B** or as otherwise set by the Tribunal.

28. Third Party Funding

- 28.1. Each party stipulates that it is not using third-party funding to cover any of the costs of this arbitration in return for remuneration dependent on the outcome of the dispute.
- 28.2. Each party bears the ongoing duty to disclose any change to the point stipulated in §28.1.

29. Confidentiality

- 29.1. The parties shall seek to enter into a Confidentiality Agreement and shall present such Confidentiality Agreement to the Tribunal no later than the date of the first pleading specified in **Annex B**. If the parties are unable to agree on the content

of a Confidentiality Agreement, either party may request an order from the Tribunal to resolve any such differences between the parties.

30. Disposal of Record

- 30.1. One year after: (1) the Secretary-General of ICSID has dispatched certified copies of the Award to the parties pursuant to Article 49 of the ICSID Convention; or 2) in the event of an annulment proceeding, following any decision on annulment and following the end of any post-annulment proceedings, the arbitrators shall dispose of the record of the arbitration, unless the parties ask that the documents be returned to them or to their counsel, which will be done at the expense of the requesting party.

On behalf of the Tribunal,

[Signed]

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Mr. Alexis Mourre  
President of the Tribunal

## Annex A – Electronic File Naming Guidelines

Please follow these guidelines when naming electronic files and for the accompanying Consolidated Hyperlinked 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 should be reflected both i) in the name used to identify each individual electronic file and ii) in the Consolidated Hyperlinked Index (which shall be attached to each submission).

For cases with a single procedural language, the “LANGUAGE” designation may be omitted, except for documents in a language other than the procedural language and the corresponding translations.

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
<b>MAIN PLEADINGS</b>	<b>Title of Pleading–LANGUAGE</b>
	<i>Memorial on Jurisdiction-FR</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>
<b>SUPPORTING DOCUMENTATION</b>  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-FR</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-FR</i>
	<b>RESPONDENT’S LEGAL AUTHORITIES</b>
	<i>RL-0001-SPA</i>
<i>RL-0002-ENG</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>
Legal Opinions	<b>Legal Opinion–Name of Expert–Name of Submission–LANGUAGE</b>
	<i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits-FR</i>
	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]-FR</i>
Exhibits to Witness Statements, Expert Reports,	<b>WITNESS/EXPERT INITIALS –###</b>
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i> <i>MJ-0001</i>

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Legal Opinions	<i>MJ-0002</i>
	<i>For exhibits filed with the Legal Opinion of [Tom Kaine]</i>
	<i>TK-0001</i>
	<i>TK-0002</i>
	<i>For exhibits filed with the Expert Report of [Lucia Smith]</i>
	<i>LS-0001</i>
	<i>LS-0002</i>
<b>INDICES</b>	<b>Consolidated Hyperlinked Index</b>
	<b>Index of Exhibits-C-#### to C-####</b>
	<i>Index of Exhibits-C-0001 to C-0023</i>
	<b>Index of Legal Authorities-RLA-### to RLA-###</b>
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
<b>OTHER APPLICATIONS</b>	<b>Name of Application–[Party]-LANGUAGE</b>
	<i>Preliminary Objections under Rule 41(5)-SPA</i>
	<i>Request for Bifurcation-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-FR</i>
	<i>Request for Discontinuance-[Claimant]-ENG</i>
	<i>Post-Hearing Brief-[Claimant]-SPA</i>
	<i>Costs Submissions-[Respondent]-ENG</i>
	<i>Observations to Request for [XX]-[Claimant]-SPA</i>

***TC Energy Corporation and TransCanada Pipelines Limited***  
**v.**  
***United States of America***

**(ICSID Case No. ARB/21/63)**

**Procedural Calendar**

<b>Procedural Step</b>	<b>Party/Tribunal</b>	<b>+Days</b>	<b>Filing Date<sup>1</sup></b>
Request for Bifurcation of Preliminary Objection(s)	Respondent	30 Days from the first Procedural Order (12 December 2022)	11 January 2023
Claimants' Observations on Request	Claimants	30	10 February 2023
Respondent's Reply to Claimants' Observations	Respondent	20	2 March 2023
Claimants' Rejoinder to Respondent's Reply	Claimants	20	22 March 2023
Tribunal's Decision on Request to Bifurcate	Tribunal	Approx. 15	13 April 2023
<b>A. No Bifurcation of Preliminary Objection(s)</b>			
Memorial	Claimants	90 days from Tribunal Decision on Bifurcation	12 July 2023
Counter-Memorial on the Merits and Memorial on Jurisdiction	Respondent	90	10 October 2023
Non-Disputing Party Submissions (Article 1128) & Applications by other non-disputing parties for leave to file <i>amicus</i> submissions	Mexico, Canada and the public	30 days from Counter-Memorial	9 November 2023
Simultaneous Observations on <i>amicus</i> applications	Claimants and Respondent	30	11 December 2023
Tribunal Decision on <i>Amicus</i> applications	Tribunal	Approx. 20	2 January 2024
<i>Amicus</i> Submissions (if any)	Public	15	17 January 2024

<sup>1</sup> All dates are subject to recalculation based on the prior procedural step(s) and where a filing would otherwise fall on a holiday or non-business day, the dates reflect the next business day.

<b>Procedural Step</b>	<b>Party/Tribunal</b>	<b>+Days</b>	<b>Filing Date<sup>1</sup></b>
Non-Disputing Party Comments on <i>Amicus</i> Submissions	Mexico and Canada	15	1 <sup>st</sup> February 2024
<i>Parties to Confer Regarding Need for Document Production</i>	<i>Claimants &amp; Respondents</i>	<i>7 days from Counter-Memorial</i>	<i>17 October 2023</i>
<i>Requests for Production of Documents (Stern Schedule) if any</i>	<i>Claimants &amp; Respondent</i>	<i>23</i>	<i>9 November 2023</i>
<i>Responses/Objections to Document Requests</i>	<i>Claimants &amp; Respondent</i>	<i>30</i>	<i>11 December 2023</i>
<i>Reply to Objections to Document Requests/Voluntary production</i>	<i>Claimants &amp; Respondent</i>	<i>16</i>	<i>27 December 2023</i>
<i>Tribunal's Decisions on Document Production</i>	<i>Tribunal</i>	<i>Approx. 15</i>	<i>11 January 2023</i>
<i>Production of Remaining Documents</i>	<i>Claimants &amp; Respondent</i>	<i>15</i>	<i>26 January 2024</i>
Reply on the Merits and Counter-Memorial on Jurisdiction	Claimants	90 days from <i>Amicus</i> Submissions <sup>2</sup>	17 April 2024
Rejoinder on the Merits and Reply on Jurisdiction	Respondent	90	16 July 2024
Rejoinder on Jurisdiction	Claimants	60	16 September 2024
<i>Inter Partes</i> Notification of Witnesses/Experts to be Called for Cross Examination	Claimants & Respondents	7	23 September 2024
Notification to the Tribunal of Witnesses/Experts (if any) to be Called for Cross Examination	Claimants & Respondents	5	30 September 2024

<sup>2</sup> If there are no applications for *amicus* submissions, then the deadline for the Reply on the Merits and Counter-Memorial on Jurisdiction shall be 90 days after the Production of Remaining Documents (or, if there is also no document production, then the deadline for the Reply on the Merits and Counter-Memorial on Jurisdiction shall be 90 days from Non-Disputing Party Submissions (Article 1128)). In the event that there are applications for *amicus* submissions, but all such applications are rejected by the Tribunal, then the deadline for Claimants' Reply on the Merits and Counter-Memorial on Jurisdiction shall be 90 days after the Production of Remaining Documents (or, if there is no document production, then the deadline for the Reply on the Merits and Counter-Memorial on Jurisdiction shall be 90 days from the Tribunal's Decision on *Amicus* applications).

Procedural Step	Party/Tribunal	+Days	Filing Date <sup>1</sup>
Pre-Hearing Organizational Meeting	All	TBD	TBD
Hearing on Jurisdiction and the Merits	All	TBD	From [REDACTED] [REDACTED]
Simultaneous Submissions on Costs	Claimants & Respondent	TBD	TBD
Simultaneous Observations on Costs Submissions	Claimants & Respondent	TBD	TBD
Decision or Award on Jurisdiction and/or the Merits	Tribunal	TBD	TBD
<b>B.1 Bifurcation of Preliminary Objection(s) – Phase 1</b>			
Memorial on Preliminary Objection(s)	Respondent	60 days from Tribunal Decision on Bifurcation	12 June 2023
Counter-Memorial on Preliminary Objection(s)	Claimants	60	11 August 2023
Non-Disputing Party Submissions (Article 1128)	Mexico, Canada and the public	30 days from Counter-Memorial	11 September 2023
<i>Parties to Confer Regarding Need for Document Production</i>	<i>Claimants &amp; Respondent</i>	<i>7 from Counter-Memorial on Preliminary Objection(s)</i>	<i>18 August 2023</i>
<i>Requests for Production of Documents (Stern Schedule), if any</i>	<i>Claimants &amp; Respondent</i>	<i>23</i>	<i>11 September 2023</i>
<i>Responses/Objections to Document Requests</i>	<i>Claimants &amp; Respondent</i>	<i>30</i>	<i>11 October 2023</i>
<i>Reply to Objections to Document Requests/ Requests to the Tribunal/Voluntary Production</i>	<i>Claimants &amp; Respondent</i>	<i>15</i>	<i>26 October 2023</i>
<i>Tribunal's Decisions on Document Production</i>	<i>Tribunal</i>	<i>Approx. 15</i>	<i>10 November 2023</i>
<i>Production of Remaining Documents</i>	<i>Claimants &amp; Respondent</i>	<i>15</i>	<i>27 November 2023</i>
Reply on Preliminary Objection(s)	Respondent	30 days from Production of Remaining	27 December 2023 or 11 October 2023

Procedural Step	Party/Tribunal	+Days	Filing Date <sup>1</sup>
		Documents <b>or</b> from Non-Disputing Party Submissions (Article 1128) (whichever comes at the latest date)	
Rejoinder on Preliminary Objection(s)	Claimants	30	26 January 2024 <b>or</b> 10 November 2023
<i>Inter Partes</i> Notification of Witnesses/Experts (if any) to be Called for Cross Examination	Claimants & Respondents	10	5 February 2024 <b>or</b> 20 November 2023
Notification to the Tribunal of Witnesses/Experts (if any) to be Called for Cross Examination	Claimants & Respondents	5	12 February 2024 <b>or</b> 27 November 2023
Pre-Hearing Organizational Meeting	All	TBD	TBD
Hearing on Preliminary Objection(s)	All		██████████ <sup>3</sup>
Tribunal Decision or Award on Preliminary Objection(s)	Tribunal	TBD	TBD
<b>B2. Proceedings on the Merits – Phase 2 (if any)</b>			
Memorial	Claimants	60 days from Tribunal's Decision on Preliminary Objection(s)	TBD
Counter-Memorial on Non-bifurcated issues	Respondent	90	TBD
Non-Disputing Party Submissions (Article 1128) & Applications by other non-disputing parties for leave to file <i>amicus</i> submissions	Mexico, Canada and the public	30 days from Counter-Memorial	TBD

<sup>3</sup> In consultation with the Parties, the Tribunal will consider advancing the hearing dates in the event the Parties determine that no document production will be required.

Procedural Step	Party/Tribunal	+Days	Filing Date <sup>1</sup>
Simultaneous Observations <i>amicus</i> applications	Claimants & Respondent	30 days from Applications for <i>Amicus</i> Submissions	TBD
Tribunal Decision on <i>Amicus</i> applications	Tribunal	Approx. 20	TBD
<i>Amicus</i> Submissions (if any)		15 days from Tribunal's Decision	TBD
<i>Parties to Confer Regarding Need for Document Production</i>	<i>Claimants &amp; Respondents</i>	<i>7 from Counter-Memorial</i>	<i>TBD</i>
<i>Requests for Production of Documents (Stern Schedule)</i>	<i>Claimants &amp; Respondent</i>	23	<i>TBD</i>
<i>Responses/Objections to Document Requests</i>	<i>Claimants &amp; Respondent</i>	30	<i>TBD</i>
<i>Reply to Objections to Document Requests/Voluntary production</i>	<i>Claimants &amp; Respondent</i>	15	<i>TBD</i>
<i>Tribunal's Decisions on Document Production</i>	<i>Tribunal</i>	<i>Approx. 15</i>	<i>TBD</i>
<i>Production of Remaining Documents</i>	<i>Claimants &amp; Respondent</i>	15	<i>TBD</i>
Reply on Non-bifurcated issues	Claimants	60 days from Production of Remaining Documents <b>or</b> from Non-Disputing Party Comments on <i>Amicus</i> Submissions (whichever comes at the latest date)	TBD
Rejoinder on Non-bifurcated issues	Respondent	60	TBD
Rejoinder on Non-bifurcated preliminary objections (if any)	Claimant	30	TBD
<i>Inter Partes</i> Notification of Witnesses/Experts to be Called for Cross Examination	Claimants & Respondents	7	TBD
Notification to the Tribunal of	Claimants & Respondents	5	TBD

<b>Procedural Step</b>	<b>Party/Tribunal</b>	<b>+Days</b>	<b>Filing Date<sup>1</sup></b>
Witnesses/Experts (if any) to be Called for Cross Examination			
Pre-Hearing Organizational Meeting	All	TBD	TBD
Hearing on Jurisdiction and the Merits	All	TBD	TBD
Simultaneous Submissions on Costs	Claimants & Respondent	TBD	TBD
Simultaneous Observations on Costs Submissions	Claimants & Respondent	TBD	TBD
Decision or Award Non-bifurcated issues and/or on the Merits	Tribunal	TBD	TBD

*Additional procedural steps may be added, or steps may be amended by the Tribunal or by agreement of the disputing parties, as required.*

ANNEX C

**Model of Stern Schedule for Document Requests**

<b>Document Request No</b>	
<b>A. Documents or category of documents requested (requesting party)</b>	
<b>B. Relevance and materiality, including references to submissions (requesting party)</b>	
<b>C. Objections to document request (objecting party)</b>	
<b>D. Response to objections and request for resolution (requesting party)</b>	
<b>E. Decision of the Tribunal</b>	