

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Gruppo Officine Piccini S.p.A.

v.

Republic of Cameroon

(ICSID Case No. ARB/23/21)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Mr. Matthias Scherer, President of the Tribunal

Mr. Constantine Partasides KC, Arbitrator

Prof. Andrea Bjorklund, Arbitrator

Secretary of the Tribunal

Dr. Laura Bergamini

March 11, 2024

Contents

1. Applicable Arbitration Rules	4
2. Constitution of the Tribunal and Tribunal Members' Declarations.....	4
3. Fees and Expenses of Tribunal Members	5
4. Presence and Quorum	5
5. Rulings of the Tribunal	5
6. Power to Fix Time Limits	6
7. Secretary of the Tribunal	6
8. Representation of the Parties	7
9. Apportionment of Costs and Advance Payments to ICSID – Division of Advances	8
10. Place of Proceeding and Hearings	9
11. Procedural Language(s), Translation and Interpretation	9
12. Routing of Communications	10
13. Number of Copies and Method of Filing of Parties' Pleadings.....	11
14. Number and Sequence of Pleadings – Procedural Calendar.....	12
15. Production of Documents	12
16. Submission of Documents	13
17. Witness Statements and Expert Reports	15
18. Examination of Witnesses and Experts.....	16
19. Pre-Hearing Organizational Meetings	18
20. Case Management Conferences	19
21. Hearings	19
22. Recordings of Hearings and Sessions	20
23. Post-Hearing Briefs and Statements of Costs	20
24. Transparency matters	20
25. Data Privacy and Cybersecurity.....	21

Gruppo Officine Piccini S.p.A. v. Republic of Cameroon
(ICSID Case No. ARB/23/21)

Procedural Order No. 1

26. Amicable Dispute Settlement	21
Annex A – Electronic File Naming Guidelines	22
Annex B – Schedule	24
Annex C – Model Schedule for Document Requests	30

Introduction

The first session of the Tribunal was held on February 23, 2024, at 9:00am, Washington D.C. time, by video conference. The session was adjourned at 10:17am. Simultaneous interpretation into English and French was provided during the session.

A 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:

Mr. Matthias Scherer, President of the Tribunal
Mr. Constantine Partasides KC, Arbitrator
Prof. Andrea Bjorklund, Arbitrator

ICSID Secretariat:

Ms. Ella Rosenberg, Acting Secretary of the Tribunal
Mr. Shay Lakhter, Paralegal
Mr. Elie El Kareh, intern

On behalf of the Claimant:

Mr Hussein Haeri, Withers LLP
Ms Camilla Gambarini, Withers LLP
Ms Clàudia Baró Huelmo, Withers LLP
Mr Patrice Omgba Nsi, Cabinet Omgba Nsi

On behalf of the Respondent:

Dr. Ngando Sandje, Ministère des Sports et de l'Éducation Physique du Cameroun
Ms Sylvie Bebohi Ebongo, HBE Avocats
Ms Alvine Bélice Happi, HBE Avocats
Mr Pierre Daureu, Talex International
Ms Aicha Mane, Talex International
Mr Jean-Claude Awana

The Tribunal and the parties considered the following:

- The Draft Procedural Order No. 1 and No. 2 circulated by the Tribunal Secretary on January 25, 2024; and

- The parties' comments on the English version of Draft Procedural Orders Nos. 1 and 2 received on 19 February 2024, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

Having considered the above documents and the parties' views, the Tribunal now issues the present Order:

Order

Pursuant to ICSID Arbitration Rules 27 and 29, this 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; Arbitration Rule 1

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of July 1, 2022.

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 21

- 2.1. The Tribunal was constituted on December 22, 2023, 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 19(3)(b). Copies of these declarations were distributed to the parties by the ICSID Secretariat upon acceptance of each arbitrator's appointment on August 2, 2023, October 12, 2023, and December 22, 2023.
- 2.3. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case and that they will use best efforts to meet all time limits for orders, decisions and the Award, in accordance with ICSID Arbitration Rule 12(1).

3. Fees and Expenses of Tribunal Members

Convention Article 60; Administrative and Financial Regulation 14; ICSID Schedule of Fees; 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 in force at the time the fees and expenses are incurred.

4. Presence and Quorum

Arbitration Rule 33

4.1. The participation of a majority of the members of the Tribunal by any appropriate means of communications is required at the first session, case management conferences, hearings and deliberations, except as otherwise provided in the Arbitration Rules or unless the parties agree otherwise.

5. Rulings of the Tribunal

Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35

5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.

5.2. Orders, decisions and the Award may be made by any appropriate means of communication.

5.3. Orders, decisions and the Award may be signed electronically.

5.4. The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.

5.5. When the matter is urgent, the President may decide procedural matters without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.

- 5.6. The Tribunal's orders and decisions shall indicate the reasons upon which they are made. The reasons may be minimal for non-controversial or minor procedural, administrative and organizational matters, e.g., extensions of time.
- 5.7. The Tribunal will use best efforts to issue all rulings, including the Award, within the time limits prescribed by the ICSID Arbitration Rules. If the Tribunal cannot comply with an applicable time limit, it will advise the parties of the special circumstances justifying the delay and the date when it anticipates rendering the ruling, in accordance with ICSID Arbitration Rule 12(2).
- 5.8. 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 Rules 10 and 11

- 6.1. The President may exercise the Tribunal's power to fix and extend time limits for the completion of each procedural step in the proceeding under Arbitration Rules 10(1) and 11(3), in accordance with Arbitration Rules 10(3) and 11(4).
- 6.2. In exercising the power to fix time limits under Arbitration Rule 10(1), the President shall consult with the parties as far as possible. If the matter is urgent, the President may fix time limits without consulting the other members of the Tribunal, subject to possible reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal
Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Dr. Laura Bergamini, Senior 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:

Dr. Laura Bergamini
ICSID
MSN C3-300

1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.
Tel.: + 1 (202) 473-6183
Fax: + 1 (202) 522-2615
Email: lbergamini@worldbank.org
Paralegal name: Mr. Shay Lakhter
Paralegal email: slakhter@worldbank.org
ICSID case address: arb/23/21@icsidcases.worldbank.org

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

Laura Bergamini
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036
USA
Tel. +1 202-458-1534

8. Representation of the Parties
Arbitration Rule 2

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 Tribunal Secretary promptly of such designation.

For the Claimant

Mr. Hussein Haeri
Ms. Camilla Gambarini
Ms. Clàudia Baró Huelmo
Ms. Christina Liew
Ms. Yousra Salem
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and

Mr. Emmanuel Pensy

Avocat au Barreau du Cameroun

Douala

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Tel.: [REDACTED]

Email: [REDACTED]

9. Apportionment of Costs and Advance Payments to ICSID – Division of Advances
Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50

- 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. Following registration of the Request for arbitration, by letter of June 8, 2023, ICSID requested that the Claimant pay US\$ 150,000 to cover the initial costs of the proceeding through the first session. ICSID received the Claimant's payment on July 27, 2023. Upon the constitution of the Tribunal, by letter of December 23, 2023, ICSID requested that the parties pay US\$ 400,000 to defray the estimated costs of the subsequent phase of the proceeding. Payment made by

the Claimant on July 27, 2023, is considered a partial payment toward that sum. ICSID received the remainder of the Claimant's payment on January 16, 2024. By letter of January 23, 2024, the Respondent informed ICSID that the administrative steps necessary for the payment of the advance had been initiated, which it reiterated at the first session.

- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

10. Place of Proceeding and Hearings

Convention Articles 62 and 63; Arbitration Rule 32

- 10.1. Washington D.C. shall be the place of the proceeding.
- 10.2. A hearing in person may be held at any place agreed to by the parties after consulting with the Tribunal and the Secretary-General. If the parties do not agree on the place of a hearing, it shall be held at the seat of the Centre. The method of holding a hearing will be determined in accordance with §21.2.
- 10.3. The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

11. Procedural Language(s), Translation and Interpretation

Administrative and Financial Regulation 32; Arbitration Rule 7

- 11.1. English and French are the procedural languages of the arbitration.
- 11.2. The Tribunal and the Secretariat may communicate in either procedural language.
- 11.3. Any document (*e.g.* written requests, applications, pleadings, expert opinions, witness statements, or supporting documents) may be filed in either procedural language.
- 11.4. Any documents in another language shall be accompanied by a translation into either procedural language, unless the Tribunal orders translation into both procedural languages. It is sufficient to translate only the relevant part of a supporting document, unless the Tribunal orders a party to provide a fuller or a complete translation.

- 11.5. Translations need not be certified, unless the translation is disputed and the Tribunal orders a party to provide a certified translation.
- 11.6. Documents exchanged between the parties pursuant to §15 below (Production of Documents) may be produced in the original language and need not be translated.
- 11.7. The parties will notify the Tribunal as soon as possible, and no later than at the case management for hearing organization (see §19 below), which witnesses or experts require interpretation.
- 11.8. The Tribunal will, in consultation with the parties, determine whether simultaneous interpretation into both procedural languages will be provided during the hearing.
- 11.9. The testimony of a witness who prefers to give evidence other than in the English or French languages shall be interpreted simultaneously into either procedural language, unless the Tribunal orders interpretation into both procedural languages.
- 11.10. 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.
- 11.11. The Tribunal may make any order or decision in one of the procedural languages of the arbitration and subsequently issue that order or decision in the other procedural language of the arbitration. Both language versions shall be equally authentic.
- 11.12. The Tribunal shall render the Decision on Preliminary Objections (if any) and the Award in English and French simultaneously. Both language versions shall be equally authentic.

12. Routing of Communications

Arbitration Rule 6

- 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 Tribunal Secretary, who shall

send them to the Tribunal. The Parties' communications shall be labelled consecutively starting from "C-1" for the Claimant, and "R-1" for Respondent.

- 12.3. 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 upon receipt of both sets of communications.
- 12.4. 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.

13. Number of Copies and Method of Filing of Parties' Pleadings
Arbitration Rules 4, 5 and 9

- 13.1. 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 witness statements, expert reports and an index of all supporting documentation.¹
- 13.2. Within 5 business days from the submission pursuant to § 13.1, the submitting party shall upload the pleading with all the supporting documentation and updated index to the file sharing platform that has been created by ICSID for purposes of this case.²
- 13.3. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word).
- 13.4. All pleadings shall contain consecutively numbered paragraphs and shall be accompanied by a cumulative index of all the supporting documentation that the party has submitted up to the date of the pleading. The index shall indicate the document number and the pleading with which it was submitted and the language of the document, and shall follow the naming conventions contained in **Annex A**.
- 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 upload to the file sharing platform, in a format that can be readily

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

² Supporting documentation shall be uploaded as individual files, not in .zip format.

downloaded, 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.³

13.6. The official date of receipt of a pleading or written communication shall be the day on which the electronic file is sent to the Tribunal Secretary by email.

13.7. A filing shall be deemed timely if sent by the Claimant by midnight, Roma (Italy) time; and if sent by the Respondent by midnight, Yaoundé (Cameroon) time, on the relevant date. If a filing falls on a Saturday or Sunday, the relevant date is the subsequent business day.

14. Number and Sequence of Pleadings – Procedural Calendar

Arbitration Rule 30

14.1. The arbitration shall proceed in accordance with the Procedural Timetable (3 scenarios) attached hereto as **Annex B**, except if the Tribunal, upon request by either party or on its own initiative, decides that the Procedural Timetable has to be amended.

15. Production of Documents

Convention Article 43(a); Arbitration Rules 5 and 36-40

15.1 Upon the request of a party filed within the time limit set in **Annex B**, each party may request from the other party a disclosure of documents or categories of documents within its possession, custody or control. Such a request for production shall identify each document or narrow category of documents sought with precision, using the request form as attached in **Annex C** hereto, specifying why the documents sought are relevant to the dispute and material to the outcome of the case. In order to ensure simultaneous exchanges, the parties will send their requests to the Secretary of the Tribunal, who will then transmit both sets of materials to the parties simultaneously.

15.2. Within the time limit set forth by **Annex B**, the other party shall either produce the

³ To ensure the full operation of the hyperlinked index, the entire folder shall be housed within one folder and then uploaded to BOX as a single zip file. Should the size of the zip file make the upload to BOX impossible, the parties shall upload the organized folder to a designated sub-folder on to the BOX filesharing platform, in a sub-folder and including a consolidated (non-hyperlinked) index.

requested documents or, using the request form provided by the first party, submit its reasons for its failure or refusal to produce responsive documents (objections). In order to ensure simultaneous exchanges, the parties will send their documents and/or their objections to the Secretary of the Tribunal, who will then transmit both sets of materials to the parties simultaneously.

- 15.3. Within the time limit set forth by **Annex B**, the requesting party may seek an order for production of documents sought and not produced, in which case it shall reply to the other party's objections in that same document. At the same time, it shall submit to the Tribunal the request form exchanged between the parties in accordance with §15.1 and §15.2 above.
- 15.4. The parties shall make no submissions in respect of the steps set out in §§ 15.1 to 15.3 above other than those incorporated in the request form exchanged between the parties in accordance with §15.1 and §15.2 above.
- 15.5. On or around the date set forth by **Annex B**, the Tribunal will, at its discretion, rule upon the production of the documents or categories of documents having regard to all the relevant circumstances, including those mentioned in Arbitration Rule 37, and if appropriate the burden of proof. The Tribunal may take guidance from, but not be bound by, Articles 3 and 9 of the 2020 IBA Rules on the taking of evidence in international arbitration.
- 15.6. Documents shall be communicated directly to the requesting party without copying the Tribunal. Documents so communicated shall not be considered to be on record unless and until the requesting party subsequently files them as exhibits in accordance with §16 below.
- 15.7. In addition, the Arbitral Tribunal may order a party to produce documents on its own initiative at any time. In that case, the documents shall be submitted to the other party and to the Arbitral Tribunal in accordance with §16 below and shall be considered to be on record.

16. Submission of Documents

Convention Article 44; Arbitration Rule 5

- 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, above.
- 16.3. Any evidence attached to a submission shall specifically be referred to in the submission attaching it. The submission shall identify the allegation which the evidence supports (reference to page/paragraph number).
- 16.4. 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 timely and reasoned written application followed by observations from the other party.
 - 16.4.1. 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.
 - 16.4.2. 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 document.
- 16.5. The Tribunal may call upon the parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 36(3).
- 16.6. Documents shall be submitted in the following form:
 - 16.6.1. 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.
 - 16.6.2. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-001” and “R-001,” 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 §16.6.4.

- 16.6.3. A party may produce several documents relating to the same subject matter within one Exhibit, numbering each page of such Exhibit separately and consecutively.
- 16.6.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 16.7. 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.
- 16.8. 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.
- 16.9. At any hearing, the parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, etc. compiling information which is on record but not presented in such form), provided that they (i) identify the source in the record from which the information is derived, (ii) do not contain information not in the record.
- 16.10. An electronic copy of each demonstrative exhibit shall be distributed by the party intending to use it via an electronic mail sent to the entire case email distribution for each party, the Members of the Tribunal, the Tribunal Secretary, to the court reporter and to the interpreters as necessary an hour before their use. PowerPoint slides shall be provided (in a form to be determined in due course) to the other party, the Tribunal Members, the Secretary, the court reporter(s) and interpreter(s) at the point in time when the PowerPoint slides are used.
- 16.11. In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the parties shall upload such demonstrative exhibits and PowerPoint slides to the case folder in the BOX filesharing platform, designating each with the corresponding CD-__ or RD-__ number.
17. Witness Statements and Expert Reports
Convention Article 43(a); Arbitration Rule 38
- 17.1. Any person may present evidence as a witness, including a party or a party's officer, employee, or other representative.

- 17.2. Witness statements and expert reports shall be filed together with the parties' pleadings.
- 17.3. 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).
- 17.4. Each witness statement and expert report shall be signed and dated by its author(s).
- 17.5. In the event of a joint expert report, each expert shall identify which areas of the report they are responsible for.
- 17.6. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, assist in the preparation of witness statements and the examinations.
- 17.7. 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 §13 above.

18. Examination of Witnesses and Experts

Arbitration Rule 38

- 18.1. The Tribunal shall at all times have complete control over the procedure in relation to oral evidence, including the right to limit or exclude any question, or to prevent a party from examining the witness or experts when it considers that any factual allegation on which the witness is being examined is sufficiently proven, or that the manner of examination of the witness is superfluous, immaterial, unduly burdensome or duplicative.
- 18.2. Each witness and expert shall be available for examination at the hearing, subject to the provisions of this Order and of any subsequent Order issued specifically by the Tribunal for the organization of the hearing.

- 18.3. Shortly after the parties' notifications, the Tribunal will indicate the witnesses or experts not called by the parties whom it wishes to question, if any.
- 18.4. Fact witnesses shall not be present in the hearing room during the hearing of arguments and oral testimony until after they have given evidence. They are not to discuss the arguments and testimony of any other witness, or read any transcript of the arguments or any oral testimony, prior to their examination. Subject to other arrangements, fact witnesses shall be examined prior to expert witnesses. The Claimants' fact witnesses will be examined prior to the Respondent's fact witnesses, followed by the Claimant's expert(s) and then the Respondent's expert(s). Subject to the Tribunal's decision, each party will determine the order of the fact witnesses whom it presents.
- 18.5. At any hearing, the examination of each witness shall proceed as follows:
- 18.5.1. the Presiding Arbitrator shall direct the witness to state that they will answer truthfully all questions posed by the parties and the Tribunal during the examination;
 - 18.5.2. the party presenting the witness may conduct a brief direct examination of no more than 10 minutes; direct examination may serve to make corrections to the witness statement, and potentially such other matters as directed by the Tribunal;
 - 18.5.3. the other party may then cross-examine the witness on relevant matters that were addressed or presented in the witness statement or during direct examination, or that are demonstrably within the scope of the witness' knowledge;
 - 18.5.4. 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; and
 - 18.5.5. the Tribunal may examine the witness at any time, either before, during or after examination by one of the parties.
- 18.6. The examination of each expert shall proceed as follows:
- 18.6.1. experts may make a presentation of up to 30 minutes instead of examination, for which they may use PowerPoint or other slide

presentations, which are to be submitted in accordance with the provisions regarding Demonstrative Exhibits in this Procedural Order;

- 18.6.2. if any corrections need to be made to an expert's report, an errata sheet of amendments must be circulated by 8h00pm the evening before the Hearing Day on which the expert gives evidence;
- 18.6.3. the party who has presented the expert may only examine the expert for purposes of asking introductory questions, limited to the scope of the written expert report and matters which have arisen after that expert report was signed, with leave from the Tribunal in exceptional circumstances;
- 18.6.4. the other party may then cross-examine the expert about the expert report and the expert's knowledge and field of expertise;
- 18.6.5. the party who has presented the expert may then re-examine the expert (only) with respect to any matters or issues arising out of the cross-examination;
- 18.6.6. the Tribunal may examine the expert at any time, either before, during or after examination by one of the parties; and
- 18.6.7. an expert can be present in the hearing room during the parties' arguments and the giving of evidence of the witness and experts prior to their examination.
- 18.6.8. The Tribunal may in its discretion provide that certain witnesses or experts may be examined together ("witness or expert conferencing"), in which case it will give appropriate directions.

19. Pre-Hearing Organizational Meetings

Arbitration Rule 31

- 19.1. A pre-hearing organizational meeting shall be held before any hearing, on the date fixed in **Annex B** or any other date(s) 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 address any outstanding procedural, administrative, and logistical matters (including modality of interpretation and transcription) in preparation for the hearing.

- 19.2. 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.

20. Case Management Conferences

Arbitration Rule 31

- 20.1. The Tribunal shall convene case management conferences with the parties in accordance with ICSID Arbitration Rule 31 as appropriate in order to (i) put in place a process to identify uncontested facts (e.g., through the submission of a joint chronology of facts); (ii) clarify and narrow the issues in dispute (e.g., by addressing tribunal questions, or submitting a decision tree, road map, matrix(es) and/or skeleton arguments); or (iii) address any other procedural or substantive issue related to the resolution of the dispute (e.g., the appointment of a Tribunal-appointed expert, or the production of evidence). It is expected that a case management conference will be held by video-conference after the first round of written submissions in accordance with **Annex B**.

21. Hearings

Arbitration Rule 32

- 21.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 21.2. 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 a place to be determined in accordance with §10.2 above.
- 21.3. Having due regard to the views of the parties and the specific circumstances of the case, including any relevant travel or public health/security restrictions the Tribunal may decide to hold a hearing remotely or in a hybrid form.
- 21.4. The hearing(s) shall take place on the date(s) fixed in accordance with **Annex B**.
- 21.5. The hearing schedule shall make allowance for at least one day after the hearing for the Members of the Tribunal to determine the next steps and to hold deliberations.

21.6. The allocation of time will be discussed at the pre-hearing organizational meeting.

22. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

22.1. Recordings shall be made of all hearings and sessions. The recordings shall be provided to the parties and the Tribunal Members.

22.2. Verbatim transcript(s) in the procedural language(s) 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 30 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by 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 Briefs and Statements of Costs

Convention Article 44; Arbitration Rules 51

23.1 The Tribunal will decide in due course, after hearing the parties, whether and by when any post-hearing briefs may be required, and when cost submissions are to be made.

23.2. The Tribunal will issue directions on the parties’ statements of costs in due course.

24. Transparency matters

Convention Article 48(5), Arbitration Rules 62-66

23.1. The parties agree that the transparency regime governing these proceedings is dealt with in Procedural Order No. 2.

25. Data Privacy and Cybersecurity

- 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 proceedings, where necessary. Should compliance with applicable law require action from another participant in the arbitration proceedings, the parties are invited to bring that to the attention of that other participant and/or to apply to the Tribunal for specific data protection measures to be put in place.
- 25.3. The parties and their representatives shall ensure that the storage and exchange of the personal data processed in this arbitration is protected by way of appropriate technical and organizational safeguards.

26. Amicable Dispute Settlement

- 26.1. The Tribunal notes that the parties may seek to reach an amicable settlement of all or part of the dispute, including through mediation under the ICSID Mediation Rules, at any time in the proceedings. If the parties settle the dispute in full, they may request that the Tribunal embody their settlement in its Award, pursuant to ICSID Arbitration Rule 55(2).

On behalf of the Tribunal,

[signed]

Mr. Matthias Scherer
President of the Tribunal
Date: March 11, 2024

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
MAIN PLEADINGS	Title of Pleading–LANGUAGE
	<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>
SUPPORTING DOCUMENTATION Exhibits	C-#### R-#### To be produced sequentially throughout the case.
	CLAIMANT’S FACTUAL EXHIBITS
	Description of the document (ENG), <i>C-0001</i>
	Description of the document (SPA), <i>C-0002</i>
	RESPONDENT’S FACTUAL EXHIBITS
	Description of the document (FR), <i>R-0001</i>
	Description of the document (SPA), <i>R-0002</i>
Legal Authorities	CL-#### RL-#### To be produced sequentially throughout the case.
	CLAIMANT’S LEGAL AUTHORITIES
	Description of the document (ENG), <i>CL-0001</i>
	Description of the document (FR), <i>CL-0002</i>
	RESPONDENT’S LEGAL AUTHORITIES
	Description of the document (SPA), <i>RL-0001</i>
	Description of the document (ENG), <i>RL-0002</i>
Witness Statements	Witness Statement-Name of Witness-Name of Submission-LANGUAGE
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</i>
	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
Expert Reports	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE
	<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	Legal Opinion-Name of Expert-Name of Submission-LANGUAGE

Gruppo Officine Piccini S.p.A. v. Republic of Cameroon
(ICSID Case No. ARB/23/21)

Procedural Order No. 1 – Annex A

	<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, Legal Opinions	WITNESS/EXPERT INITIALS-###
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i>
	<i>MJ-0001</i>
	<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>	
INDICES	Consolidated Hyperlinked Index
	Index of Exhibits-C-#### to C-####
	<i>Index of Exhibits-C-0001 to C-0023</i>
	Index of Legal Authorities-RLA-### to RLA-###
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
OTHER APPLICATIONS	Name of Application-[Party]-LANGUAGE
	<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>	

Annex B – Schedule⁴

SCENARIO 1 – NO BIFURCATION REQUEST

Step	Date
First session	February 23, 2024
Memorial	May 10, 2024
Counter-Memorial	September 10, 2024 (4 months later)
Case Management Conference	September 19, 2024
Document requests	October 1, 2024 (3 weeks from Counter-Memorial)
Production of non-contested documents and/or objections	October 15, 2024 (2 weeks later)
Replies to objections	October 29, 2024 (2 weeks later)
Decision of the Tribunal on document production	November 26, 2024 (4 weeks later)
Document production	December 3, 2024 (1 week later)
Reply	December 17, 2024 (2 weeks later)
Rejoinder	March 17, 2025 (3 months later)
List of witnesses and experts to be cross-examined during the hearing	March 31, 2025 (2 weeks later)
Applications, if any, to call witnesses/experts that were not called for cross-examination	April 4, 2025 (4 days later)
Pre-hearing conference	April 7, 2025

⁴ Time limits for actions by the Tribunal are indicative only.

Gruppo Officine Piccini S.p.A. v. Republic of Cameroon
(ICSID Case No. ARB/23/21)

Procedural Order No. 1 – Annex B

Step	Date
Hearing (5 days)	May 12-16, 2025
Post-hearing briefs and/or cost submissions	TBD

SCENARIO 2 – WITH BIFURCATION REQUEST BUT NO BIFURCATION OF PROCEEDINGS

Step	Date
First session	February 23, 2024
Memorial	May 10, 2024
Respondent’s bifurcation request (Arbitration Rules 42 and 44)	June 24, 2024 (45 days since Memorial)
Claimant’s observations to bifurcation request	July 15, 2024 (3 weeks later)
Tribunal’s decision on bifurcation	August 5, 2024 (3 weeks later)
Counter-Memorial	November 5, 2024 (3 months later)
Case Management Conference	November 18, 2024
Document requests	November 26, 2024 (3 weeks from Counter-Memorial)
Production of non-contested documents and/or objections	December 10, 2024 (2 weeks later)
Replies to objections	December 20, 2024 (10 days later)
Decision of the Tribunal on document production	January 17, 2025 (4 weeks later)
Document production	January 31, 2025 (2 weeks later)
Reply	February 14, 2025 (2 weeks later)
Rejoinder	May 14, 2025 (3 months later)
List of witnesses and experts to be cross-examined during the hearing	May 28, 2025 (2 weeks later)

Gruppo Officine Piccini S.p.A. v. Republic of Cameroon
(ICSID Case No. ARB/23/21)

Procedural Order No. 1 – Annex B

Step	Date
Applications, if any, to call witnesses/experts that were not called for cross-examination	June 5, 2025 (1 week later)
Pre-hearing conference	July 15, 2025
Hearing (5 days)	September 15-19, 2025
Post-hearing briefs and/or cost submissions	TBD

SCENARIO 3 –BIFURCATION OF PROCEEDINGS

Step	Date
<u>First session</u>	February 23, 2024
Memorial	May 10, 2024
Respondent’s bifurcation request (Arbitration Rules 42 and 44)	June 24, 2024 (45 days since Memorial)
Claimant’s observations to bifurcation request	July 15, 2024 (3 weeks later)
Tribunal’s decision on bifurcation	August 5, 2024 (3 weeks later)
Respondent’s bifurcated objections	September 16, 2024 (6 weeks later)
Claimant’s response to bifurcated objections	November 18, 2024 (2 months later)
Case Management Conference	December 3, 2024
Respondent’s reply on bifurcated objections	December 18, 2024 (1 month from the Claimant’s response)
Claimant’s rejoinder on bifurcated objections	January 20, 2025 (1 month)
List of witnesses and experts to be cross-examined during the hearing (if any)	January 27, 2025 (one week later)
Applications, if any, to call witnesses/experts that were not called for cross-examination	January 31, 2025 (4 days later)
Pre-hearing conference	February 3, 2025 (a month before the hearing)
Hearing on bifurcated objections	Week of March 3, 2025
Ruling on bifurcated objections	Maximum 180 days since the last submissions
If the bifurcated objections are dismissed, the parties agree that Scenario 1 will be applicable, with all deadlines adapted to account for the new date of the Respondent’s Counter-Memorial (which would be due 4 months after the issuance of the decision on bifurcated objections).	

Gruppo Officine Piccini S.p.A. v. Republic of Cameroon
(ICSID Case No. ARB/23/21)

Procedural Order No. 1 – Annex B

Step	Date
Assuming the Tribunal’s decision is rendered seven months after the hearing on bifurcated objections (October 3, 2025), the procedural schedule would be as follows:	
Counter-Memorial	February 3, 2026 (4 months later)
Case Management Conference	February 13, 2026
Document requests	February 24, 2026 (3 weeks from Counter-Memorial)
Production of non-contested documents and/or objections	March 10, 2026 (2 weeks later)
Replies to objections	March 24, 2026 (2 weeks later)
Decision of the Tribunal on document production	April 14, 2026 (3 weeks later)
Document production	May 5, 2026 (3 weeks later)
Reply	May 19, 2026 (2 weeks later)
Rejoinder	August 19, 2026 (3 months later)
List of witnesses and experts to be cross-examined during the hearing	September 2, 2026 (2 weeks later)
Applications, if any, to call witnesses/experts that were not called for cross-examination	September 6, 2026 (4 days later)
Pre-hearing conference	September 9, 2026 (a month before the hearing)
Hearing (5 days)	October 12-16, 2026
Post-hearing briefs and/or cost submissions	TBD

Annex C Model Schedule for Document Requests

Document Request No.	
A. Documents or category of documents requested (requesting Party)	
B. Relevance and materiality (requesting Party) (1) para. ref. to submissions (2) comments	
C. Objections to document request (objecting Party)	
D. Response to objections and request for resolution (requesting Party)	
E. Decision of the Tribunal	