

UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW
ARBITRATION RULES (1976)

ABDALLAH ANDRAOUS

Claimant

v.

KINGDOM OF THE NETHERLANDS

Respondent

PROCEDURAL ORDER NO. 1

Arbitral Tribunal

Ms. Claudia Salomon (Presiding Arbitrator)
Prof. Nassib G. Ziadé
Mr. José Emilio Nunes Pinto

Secretary of the Tribunal

Felipe Aragón

23 November 2023

INDEX

WHEREAS	3
PROCEDURAL ORDER NO. 1	4
1. APPLICABLE ARBITRATION RULES	4
2. LANGUAGE OF THE ARBITRATION	4
3. PLACE OF ARBITRATION	4
4. CONFIDENTIALITY AND TRANSPARENCY	5
5. MEANS OF COMMUNICATION	5
6. OTHER APPLICABLE RULES AND GUIDELINES	7
7. THIRD-PARTY FUNDING	7
8. GDPR OR OTHER DATA PROTECTION CONSIDERATIONS	7
9. ACCOMMODATIONS REQUIRED FOR THOSE WITH DISABILITY	7
10. PROCEDURAL TIMETABLE	8
ANNEX I	9
ANNEX II.....	11

WHEREAS

1. This arbitration arises between Mr. Abdallah Andraous [**“Claimant”**] and The Kingdom of the Netherlands [**“Respondent”**]. Claimant and Respondent shall be jointly referred to as the **Parties**.
2. On 27 October 2023, the Parties submitted a joint report recording the Parties respective positions on procedural issues [**“Joint Report”**], that would be included in Procedural Order No. 1 [**“PO1”**].
3. On 30 October 2023, the Parties presented an amended Joint Report.
4. On 2 November 2023, the Arbitral Tribunal and the Parties held a case management conference call to discuss the Terms of Appointment, procedural issues and the procedural calendar for the arbitration.
5. On 13 November 2023, the Parties submitted an updated version of the Joint Report with their agreements on procedural issues; but informed the Tribunal that no agreement had been reached regarding the procedural calendar.
6. On 14 and 17 November 2023, Respondent and Claimant respectively submitted their proposals for the procedural calendar.
7. On 23 November 2023, Claimant presented an additional letter with respect to its proposal for the procedural calendar.
8. The following Procedural Order reflects the Parties’ agreements, and the Tribunal’s decisions when such agreements were not possible.

PROCEDURAL ORDER NO. 1

1. APPLICABLE ARBITRATION RULES

9. The Parties have agreed that the arbitration shall be conducted under the 1976 UNCITRAL Arbitration Rules [“**UNCITRAL Rules**”] and the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration [the “**UNCITRAL Transparency Rules**”].
10. For issues not addressed in the UNCITRAL Rules, the Tribunal shall apply the rules that the Parties have agreed upon. In the absence of such agreement, the Tribunal shall apply the rules it deems appropriate.

2. LANGUAGE OF THE ARBITRATION

11. English is the procedural language of the arbitration, and for the avoidance of doubt applies to all stages of the arbitration, including the award.
12. Further to Article 17(2) of the UNCITRAL Rules, documents filed in any other language must be accompanied by a translation into English. If the document is lengthy and relevant only in part, it is sufficient to translate only the relevant parts. The Tribunal may require a fuller or complete translation upon a Party’s request or its own initiative. 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.
13. Witnesses and experts should in principle provide testimony in the procedural language of the arbitration. If the witness or expert does not speak English, a witness or expert may testify in a language other than the procedural language with simultaneous interpretation into the procedural language.
14. The Parties will notify the Tribunal as soon as possible, and no later than one week prior to the pre-hearing organizational meeting, which witnesses or experts require interpretation from the procedural language of the arbitration.
15. Simultaneous interpretation shall be arranged by the Parties and charged to the case account, without prejudice to the Tribunal’s final allocation of costs.

3. PLACE OF ARBITRATION

16. The Parties agreed that the place of the arbitration shall be Geneva, Switzerland.
17. The Tribunal can hold hearings at any other place that it considers appropriate after consulting with the Parties. The Tribunal may deliberate at any place it considers convenient.
18. The award shall be made at the place of arbitration.

4. CONFIDENTIALITY AND TRANSPARENCY

19. The ICSID Secretariat shall assume the role of the “repository” foreseen under the UNCITRAL Transparency Rules with respect to this arbitration.
20. The ICSID Secretariat shall make information and documents regarding the arbitration available to the public in accordance with the UNCITRAL Transparency Rules, except as otherwise decided by the Tribunal pursuant to the UNCITRAL Transparency Rules.
21. The documents that shall be made available to the public are those referred in Article 3 of the UNCITRAL Transparency Rules, subject to its Article 7.
22. Any confidential information shall be protected from disclosure in accordance with Article 7 of the UNCITRAL Transparency Rules, as follows:
 - Any Party claiming that certain information in a document constitutes protected information shall clearly designate the information at the time it submits it to the Tribunal, together with a redacted version of the document that does not contain such information. Only the redacted version shall be made public;
 - Within three weeks of receiving the redacted version of the document, the other Party may object the designation of information claimed to be protected.
 - The Tribunal shall decide any objection regarding the designation of information claimed to be protected information. If the Tribunal determines that such information was not properly designated, the Party that submitted the information may
 - withdraw all or part of its submission containing such information; or
 - agree to resubmit complete and redacted documents with corrected designations in accordance with the Tribunal’s determination.
23. Neither the Parties nor the Tribunal shall disclose any protected information so designated in accordance with this section.
24. The Tribunal will decide any disagreement between the Parties regarding the enforcement of these rules on transparency.
25. Pursuant to Article 6 of the UNCITRAL Transparency Rules hearings shall be public except as otherwise decided by the Tribunal.

5. MEANS OF COMMUNICATION

26. Each Party’s notifications and communications shall be transmitted by email or other electronic means directly to the Tribunal, with a copy to the opposing Party, to the Secretary of the Tribunal, as well as to ICSID as the administering institution. Any simultaneous notifications or communications shall be transmitted to the Secretary of the Tribunal only, who shall send them to the Parties and to the Tribunal once both Parties’ notifications or communications have been received.

27. All notifications and communications shall be deemed to have been validly made to the Parties if communicated to their respective representatives at the email addresses set forth at Section I of the Terms of Appointment or as notified by the Parties at a later stage in the arbitration.
28. Communications and orders by the Tribunal shall be made by email only.

Electronic filing of the Pleadings

29. The Parties shall, by a relevant filing date:
- (i) submit in the manner provided in para. 26 an electronic version without exhibits of pleadings, witness statements, expert reports and an updated index of all the supporting documentation accompanying the pleadings (listing exhibits, legal authorities, witness statements and expert reports and annexes thereto); and
 - (ii) upload the above documents with exhibits to the server created for this case.
30. Electronic files and the accompanying indexes shall follow the naming conventions contained in Annex II.
31. Electronic versions of any written instrument shall be text searchable (i.e., PDF or Word).
32. The official date of receipt of a pleading or communication shall be the day on which the electronic version is sent to the Tribunal.
33. A filing shall be deemed timely if sent by midnight at the seat of arbitration on the relevant date.
34. The Parties shall take reasonable measures for the secure transmission of documents, information and communications in this arbitration. If particular documents, information and/or communications require heightened security measures, the Parties will confer in order to take appropriate security measures for the transmission of such documents, information and/or communications.
35. The Parties agree that it is unnecessary for the Tribunal and/or the Parties to take any special measures to safeguard the cybersecurity of arbitration-related information and confirm that communications may be sent by email unless and until further guidance is received from the Tribunal.

Hard copies of the Pleadings

36. The Tribunal may request hard copies of any document submitted electronically at any time.
37. Within four business days following the respective filing, the Parties shall courier to ICSID:

- (i) A hard copy in A4 format printed on both sides, of the entire submission, including the pleadings, witness statements and expert reports, together with any other supporting documentation (except for the legal authorities) and the updated index; and
 - (ii) a USB drive with full copy of the entire submission including the pleading, the witness statements, expert reports, exhibits, legal authorities and the updated hyperlinked index of all the supporting documentation.
38. The Parties shall forward the hard copy of the pleadings to the addresses set forth in the Terms of Appointment.

6. OTHER APPLICABLE RULES AND GUIDELINES

39. The dispute is to be decided in accordance with the provisions of the Agreement on the Encouragement and Reciprocal Protection of Investments between the Lebanese Republic and the Kingdom of the Netherlands signed on 2 May 2002, and which entered into force on 1 March 2004 [the “**Lebanon-Netherlands BIT**” or the “**Treaty**”], in conjunction with applicable rules of international law.
40. The Tribunal may seek guidance from the International Bar Association Rules on the Taking of Evidence in International Arbitration (2020) in the conduct of these proceedings.

7. THIRD-PARTY FUNDING

41. The Claimant confirms that he is not a party to any third-party funding agreement by which his costs are being met by a third-party funder and that his costs are not being met by any third party in relation to this arbitration.
42. The Parties agree that they will disclose any third-party funding whenever any third-party funding is engaged in the course of the arbitration. That party will then also disclose whether any future adverse costs orders that may be made by the Tribunal against them would be met by the third-party funder.

8. GDPR OR OTHER DATA PROTECTION CONSIDERATIONS

43. Nothing in the applicable rules shall require any of the Parties to withhold from the public information required to be disclosed by its laws. The Parties shall apply those laws in a manner sensitive to protecting from disclosure to the public information that has been designated as confidential or protected information. This provision should not affect the Parties’ obligation to provide disclosure pursuant to orders by the Tribunal.

9. ACCOMMODATIONS REQUIRED FOR THOSE WITH DISABILITY

44. At any point during the proceedings, but ideally as soon as practicable, either Party may advise the Arbitral Tribunal of a person who, by reason of disability, requires reasonable accommodation to facilitate their full participation in the arbitration, including site visits

and oral hearings. In considering such requests, the Arbitral Tribunal will take account of the privacy rights of such persons against the unnecessary disclosure of their disability.

45. For the purposes of this provision, disability means any physical or mental health condition that – without accommodation – would impair a person’s ability to participate in work related to an arbitration.

10. PROCEDURAL TIMETABLE

46. The arbitration shall proceed in accordance with the Procedural Timetable attached hereto as Annex I, except if the Tribunal, at the reasonable request of any Party or on its own initiative, decides that, for good cause, this Procedural Timetable should be amended.
47. The Tribunal and the Parties understand that time periods fixed in Annex I are ample and sufficient for the preparation of the submissions. Consequently, the Tribunal will not accept motions for time extensions, save in reasonable and substantiated circumstances.
48. Time extensions which imply a cancellation of the hearing will only be granted in exceptional circumstances.
49. Amendments to the Procedural Timetable will be made by reissuing Annex I.

[signed]

Claudia Salomon
Presiding Arbitrator
Date: 23 November 2023

ANNEX I

PROCEDURAL TIMETABLE

Procedural action	Party required to act	Timeframe	Deadline	No. of Days
Preliminary Hearing	All	2 November 2023	02 November 2023	
Procedural Order No. 1	Tribunal	23 November 2023	23 November 2023	
Statement of Claim (Jurisdiction and Merits, <u>but not Quantum</u>)	Claimant	Within 3 months of Procedural Order No. 1	22 February 2024	90

BIFURCATED PROCEEDINGS				
Procedural action	Party required to act	Timeframe	Deadline	No. of Days
First round of written submissions on Jurisdiction				
Statement of Defence on Jurisdiction	Respondent	Within 3 months of Statement of Claim	22 May 2024	90
Document Production				
Request for Production of Documents pertaining to the Jurisdictional Phase	Both Parties	Within 2 weeks of Statement of Defence on Jurisdiction	5 June 2024	14
Responses and/or Objections to the Request for Production of Documents	Both Parties	Within 2 weeks of Request for Production of Documents	19 June 2024	14
Reply to Objections to the Request for Production of Documents sent to Tribunal	Both Parties	Within 1 week of Responses and/or Objections to the Request for Production of Documents	26 June 2024	7

Decision on Objections to Request for Production of Documents	Tribunal	Within 2 weeks of Reply to Objections to the Request for Production of Documents sent to Tribunal	10 July 2024	14
Production of Documents Ordered by the Tribunal and Non-Contested Documents	Both Parties	Within 3 weeks of Decision on Objections to Request for Production of Documents	31 July 2024	21
Second round of written submissions on Jurisdiction				
Statement of Reply on Jurisdiction	Claimant	Within 2 months from the date of production	1 October 2024	62
Statement of Rejoinder on Jurisdiction	Respondent	Within 2 months of Statement of Reply on Jurisdiction	2 December 2024	62
Hearing				
Notification of Witnesses and Experts	Both Parties	1 week before the pre-hearing conference call	3 January 2025	7
Pre-Hearing Conference Call	All	10 days before the hearing	10 January 2025	10
Hearing on Jurisdictional Objections (2 days)	All	Approximately 1 month after the Statement of Rejoinder on Jurisdiction	Week of 20 January 2025	30
Decision on Jurisdictional Objections	Tribunal	TBD	TBD	
Post-Hearing Phase				
Transcript Revision	Both Parties	Within 3 weeks of receipt of transcript and audio recording	TBD	
Post-Hearing Briefs	Both Parties	TBD at the end of the hearing	TBD	
Statement of Costs	Both Parties	TBD at the end of the hearing	TBD	
<p>In the event that the Tribunal declines Respondent’s Jurisdictional Objections, the Tribunal will schedule a Case Management Conference to determine the next phase(s) of the proceedings.</p>				

ANNEX II

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 accompanying documentation that are not in English and are submitted with a corresponding translation shall indicate the LANGUAGE in which they are submitted (e.g. DUT=Dutch). 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).

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
MAIN PLEADINGS	Title of Pleading
	<i>Statement of Claim</i>
	<i>Statement of Defence</i>
	<i>Motion to Bifurcate</i>
	<i>Response to Motion to Bifurcate</i>
SUPPORTING DOCUMENTATION Exhibits	C-####-LANGUAGE (if other than English)
	R-####-LANGUAGE (if other than English)
	To be produced sequentially throughout the case.
	CLAIMANT'S FACTUAL EXHIBITS
	<i>C-001</i>
	<i>C-002</i>
	RESPONDENT'S FACTUAL EXHIBITS
	<i>R-001</i>
	<i>R-002</i>
Legal Authorities	CL-####-LANGUAGE (if other than English)
	RL-####-LANGUAGE (if other than English)
	To be produced sequentially throughout the case.
	CLAIMANT'S LEGAL AUTHORITIES
	<i>CL-001</i>
	<i>CL-002</i>
	RESPONDENT'S LEGAL AUTHORITIES
	<i>RL-001</i>
<i>RL-002</i>	
Witness Statements	Witness Statement-Name of Witness-Name of Submission-LANGUAGE (if other than English)

	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction</i>
	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]</i>
Expert Reports	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE (if other than English)
	<i>Expert Report-Lucia Smith-Valuation-Memorial on Quantum</i>
	<i>Expert Report-Lucia Smith-Valuation-Reply on Quantum-[Second Report]</i>
Legal Opinions	Legal Opinion-Name of Expert-Name of Submission-LANGUAGE (if other than English)
	<i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits</i>
	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]</i>
Exhibits to Expert Reports, Legal Opinions	EXPERT INITIALS-###
	<i>For exhibits filed with the Legal Opinion of [Tom Kaine]</i>
	<i>TK-001</i>
	<i>TK-002</i>
	<i>For exhibits filed with the Expert Report of [Lucia Smith]</i>
	<i>LS-001</i>
	<i>LS-002</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>Request for Provisional Measures-[Respondent]</i>
	<i>Request for Production of Documents-[Claimant]</i>
	<i>Request for Stay of Enforcement</i>
	<i>Request for Discontinuance-[Claimant]</i>
	<i>Post-Hearing Brief-[Claimant]</i>
	<i>Costs Submissions-[Respondent]</i>
	<i>Observations to Request for [XX]-[Claimant]</i>