

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Rand Investments Ltd., William Archibald Rand, Kathleen Elizabeth Rand, Allison Ruth Rand, Robert Harry Leander Rand and Sembi Investment Limited

v.

Republic of Serbia

(ICSID Case No. ARB/18/8)

PROCEDURAL ORDER NO. 8

Members of the Tribunal

Prof. Gabrielle Kaufmann-Kohler, President of the Tribunal

Mr. Baiju S. Vasani, Arbitrator

Prof. Marcelo G. Kohen, Arbitrator

Secretary of the Tribunal

Ms. Marisa Planells-Valero

Assistant to the Tribunal

Mr. Rahul Donde

3 November 2020

I. BACKGROUND

1. On 21 August 2020, given the evolution of the COVID-19 pandemic, the Tribunal proposed a contingency plan for conducting the hearing scheduled from 28 October to 1 November 2020 (with 2 November in reserve) virtually, if need be. It also proposed to split the hearing for time management purposes and hold a second part in January 2021.
2. In their respective communications of 28 August 2020, both Parties indicated a preference for an in-person hearing, besides addressing other matters in the Tribunal's proposal.
3. On 14 September 2020, in accordance with Procedural Order No. 7, the Parties proposed a draft Joint Hearing Schedule contemplating an in-person hearing.
4. On 24 September 2020, the Government of Canada advised the ICSID Secretariat that pursuant to Article 29.2 of the Agreement Between Canada and the Republic of Serbia for the Protection and Promotion of Investments, it intended to exercise its right to attend the hearing.
5. On 27 September 2020, the Tribunal wrote to the Parties noting that the COVID-19 pandemic was worse in some States than it was when it first wrote to the Parties about it. As a result, it remained concerned about the health and safety of all hearing participants, who would be gathered in the same room for long days and would need to travel to the hearing venue, some of them on long haul flights. Further, it could not be ruled out that one or more of the participants would eventually be unable to attend the hearing due to travel restrictions or health reasons, which could jeopardize the hearing and cause a last-minute postponement or require an additional hearing, neither of which would be time or cost efficient.
6. In the same letter, the Tribunal also noted that the draft Joint Hearing Schedule proposed by the Parties would be difficult to put into practice, because the time actually available for

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the Parties each day (after deducting procedural issues, breaks, and Tribunal questions) was insufficient to complete the planned examinations.

7. The Tribunal proposed to discuss these matters during the forthcoming pre-hearing conference, including discussing two alternative proposals prepared by the Tribunal to address the uncertainty and risks caused by the pandemic and to accommodate the Parties' proposed draft Joint Hearing Schedule.
8. The pre-hearing conference took place on the Zoom videoconferencing platform on 30 September 2020, at which the Tribunal and the Parties discussed the matters just mentioned.
9. On 2 October 2020, the Tribunal confirmed that, based on the Claimants' request and the Respondent's consent, the Hearing was postponed to **12 to 20 July 2021**, with Sunday, 18 July 2021 being a day off and Tuesday, 20 July 2021 being a reserve day.
10. On the same day, the ICSID Secretariat advised the Government of Canada of the revised hearing dates.
11. On 13 October 2020, the ICISD Secretariat confirmed that the hearing would be held on the premises of the Permanent Court of Arbitration at The Hague.
12. On 22 October 2020, the Claimants enquired about the schedule for the steps preceding the hearing, "namely the dates for submission of the hearing schedule and pre-hearing telephone conference".
13. On 28 October 2020, the ICSID Secretariat enquired with the Parties about their availability for the prehearing conference call on 7 or 9 June 2021.
14. Following the Parties' confirmation of their availability, the Tribunal issues this Procedural Order No. 8 containing the revised procedural calendar.

II. DECISION

15. The arbitration shall proceed in accordance with the revised procedural calendar attached as Annex A to this Procedural Order.

On behalf of the Tribunal,

[signed]

Professor Gabrielle Kaufmann-Kohler
President of the Tribunal
Date: 3 November 2020

Annex A
PROCEDURAL CALENDAR

No.	Description	Party / Tribunal	Final Time Period / Date
1.	Revised Joint/Separate Draft Hearing Schedule(s)	CLAIMANTS AND RESPONDENT	24 May 2021

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2.	Pre-hearing telephone conference (“PHTC”)	ALL	7 June 2021 at 18:30 (CET)
3.	Hearing	ALL	12 to 20 July 2021, with Sunday, 18 July 2021 being a day off and Tuesday, 20 July 2021 being a reserve day, being specified that the exact number of days required will be determined at the PHTC.