

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P.

Claimants

v.

United Mexican States

Respondent

(ICSID Case No. ARB/23/22)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Ms. Dyalá Jiménez Figueres, President of the Tribunal
Prof. Dr. Silvina S. González Napolitano, Arbitrator
Prof. Dr. Stephan W. Schill, Arbitrator

Secretary of the Tribunal

Ms. Elisa Méndez Bräutigam

Assistant of the Tribunal

Ms. Karima Sauma

1 February 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	6
5.	Rulings of the Tribunal	6
6.	Power to Fix Time Limits	7
7.	Secretary of the Tribunal	7
8.	Assistant to the President of the Tribunal	8
9.	Representation of the Parties	9
10.	Apportionment of Costs and Advance Payments to ICSID – Division of Advances	10
11.	Place of Proceeding and Hearings	11
12.	Procedural Language(s), Translation and Interpretation	11
13.	Routing of Communications	12
14.	Number of Copies and Method of Filing of Parties' Pleadings.....	13
15.	Number and Sequence of Pleadings – Procedural Timetable.....	14
16.	Submission of Documents	14
17.	Production of Documents	16
18.	Witness Statements and Expert Reports	18
19.	Examination of Witnesses and Experts.....	20
20.	Pre-Hearing Organizational Meetings	21
21.	Case Management Conferences.....	22
22.	Hearings	22
23.	Recordings of Hearings and Sessions.....	22
24.	Post-Hearing Memorials and Statements of Costs.....	23
25.	Transparency Matters.....	23
26.	Non-Disputing NAFTA Parties	23
27.	<i>Amicus Curiae</i> Participation	24
28.	Data Privacy and Cybersecurity.....	24
29.	Amicable Dispute Settlement	25

Annex A – Electronic File Naming Guidelines	26
Annex B – Timetable	28
Annex C - Model Redfern Schedule For Document Requests	39

Introduction

The first session of the Tribunal was held on 29 January 2024, at 11:00 am EST, by video-conference. The session was adjourned at 12:25 pm EST.

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:

Ms. Dyalá Jiménez Figueres, President of the Tribunal
Prof. Dr. Silvina S. González Napolitano, Arbitrator
Prof. Dr. Stephan W. Schill, Arbitrator

ICSID Secretariat:

Ms. Elisa Méndez Bräutigam, Secretary of the Tribunal

Assistant of the Tribunal:

Ms. Karima Sauma

On behalf of the Claimants:

Mr. David Izett, Enerflex
Mr. Omar Guerrero Rodríguez, Hogan Lovells
Mr. Juan Francisco Torres Landa, Hogan Lovells
Mr. Michael Grant Jacobson, Hogan Lovells
Mr. Orlando Federico Cabrera Colorado, Hogan Lovells
Ms. Meghan Anand, Hogan Lovells

On behalf of the Respondent:

Mr. Alan Bonfiglio Ríos, Secretaría de Economía
Ms. Rosalinda Toxqui Tlaxcalteca, Secretaría de Economía
Mr. Alejandro Rebollo Ornelas, Secretaría de Economía
Mr. Stephan E. Becker, Pillsbury Winthrop Shaw Pittman LLP
Mr. Gary J. Shaw, Pillsbury Winthrop Shaw Pittman LLP

The Tribunal and the parties considered the following:

- The Draft Procedural Order No. 1 and No. 2 circulated by the Tribunal Secretary on 28 December 2023; and
- The parties' comments on the Draft Procedural Order(s) received on 22 January 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**. Amendments to the timetable will be made by reissuing Annex B.

1. Applicable Arbitration Rules

Convention Article 44; Arbitration Rule 1; NAFTA Article 1120(2)

1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of July 1, 2022, except to the extent that they have been modified by Section B, Chapter 11 of the NAFTA.

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 21

2.1. The Tribunal was constituted on 11 December 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 14 July 2023, 22 September 2023 and 11 December 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).

2.4. The contact details for the Members of the Tribunal are:

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Momentum Escazú
San José, Costa Rica

Procedural Order No. 1

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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.
- 3.2. Under the current Schedule of Fees, each Tribunal Member receives:
- 3.2.1. A fee of US\$500 for each hour of work performed in connection with the proceeding, including each hour spent participating in hearings, sessions and meetings; and
- 3.2.2. Subsistence allowances, reimbursement of travel, and other expenses pursuant to ICSID Administrative and Financial Regulation 14.
- 3.3. Each Tribunal Member shall submit his/her claims for fees and expenses to the ICSID Secretariat on a quarterly basis.
- 3.4. Non-refundable expenses incurred in connection with a hearing as a result of a postponement or cancellation of the hearing shall be reimbursed.
- 3.5. In the event the Members of the Tribunal are asked to reserve more than one day for a hearing or meeting, and that hearing or meeting is either cancelled or postponed by more than one week by one or both of the parties, the Members of

Procedural Order No. 1

the Tribunal shall be remunerated for each day reserved as follows (based on an eight-hour day):

- 3.5.1. Where the cancellation or postponement occurs within three months of the first day of such hearing, 25% of the applicable fees;
 - 3.5.2. Where the cancellation or postponement occurs within one month of the first day of such hearing, 50% of the applicable fees; or
 - 3.5.3. Where the cancellation or postponement occurs within three calendar days of the first day of such hearing, 100% of the applicable fees.
- 3.6. The Tribunal may decide on the allocation of the remuneration addressed in the preceding paragraphs at any time in accordance with ICSID Arbitration Rule 52.

4. Presence and Quorum
Arbitration Rule 33

- 4.1. The participation of all Members of the Tribunal by any appropriate means of communications is required at the first session, case management conferences, hearings and deliberations.

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 and may be signed electronically.
- 5.3. The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.
- 5.4. 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.
- 5.5. The Tribunal's orders and decisions shall indicate the reasons upon which they are made and shall be issued after hearing the parties. For non-controversial or minor procedural, administrative and organizational matters, the Tribunal may issue a decision without giving reasons.

Procedural Order No. 1

- 5.6. The Tribunal will use its 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).
- 5.7. Any ruling of the Tribunal will be dispatched electronically to the parties. The certified copy of the Award will be dispatched electronically to the parties and sent via *courier* to the address designated by each party.

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 parties, 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 Elisa Méndez Bräutigam, Legal Counsel, ICSID, or such other person as ICSID may notify the Tribunal and the parties from time to time.
- 7.2. To send copies of communications by email, mail, and courier/parcel deliveries to the ICSID Secretariat, the contact details are:

Ms. Elisa Méndez Bräutigam
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.
Tel.: + 1 (202) 473-2851
Email: emendezbrautigam@worldbank.org
Paralegal name: Mr. Pedro Magariño
Paralegal email: pmagarino@worldbank.org
ICSID case address: ARB/23/22@icsidcases.worldbank.org

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

Ms. Elisa Méndez Bräutigam
ICSID
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8. Assistant to the President of the Tribunal

8.1. By letter of 16 December 2023 the President explained to the parties that she considered that it would benefit the overall cost and time efficiency of the proceedings if the President had an assistant. The President proposed, with the approval of the other Members of the Tribunal, that Ms. Karima Sauma of DJ Arbitraje be appointed as assistant to the President. Ms. Sauma's *curriculum vitae* was transmitted to the parties on 16 December 2023.

8.2. The President further explained that the assistant would (i) undertake only such specific tasks as are assigned to her by the President, such as the marshaling of evidence, research of specific issues of law, organization of case documents, preparation of drafts and review of formal aspects of draft procedural orders and decisions; and (ii) be subject to the same confidentiality obligations as the Members of the Tribunal and sign a declaration to that effect.

8.3. The parties consented to the appointment of Ms. Sauma as assistant to the President on 22 December 2023.

8.4. The Assistant of the President shall be bound by the same duties of confidentiality, independence, and impartiality as the Tribunal. The parties received the Assistant's declaration of independence and impartiality on 28 December 2023.

8.5. Ms. Sauma's contact details are the following:

Karima Sauma
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Momentum Escazú
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Karima.sauma@dj Arbitraje.com
+ 506 4010-1074

Procedural Order No. 1

- 8.6. The parties also agreed that the Assistant's compensation will be covered by the President of the Tribunal, and that her expenses will be reimbursed as described in the Secretariat's letter of 16 December 2023.
- 8.7. The Tribunal may remove the Assistant of the President at its discretion. The Tribunal may appoint a substitute by submitting to the parties the substitute's *curriculum vitae* and declaration of independence and impartiality for their approval.

9. Representation of the Parties
Arbitration Rule 2

- 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. In that case, the parties shall endeavor to designate persons with no conflict of interest with the Members of the Tribunal.

For the Claimants

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For the Respondent

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Procedural Order No. 1

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- 9.2. Following the date of signature of this Procedural Order, any intended change or addition by a party to the above legal representatives shall be notified promptly in writing to the other party, the Tribunal, and the Tribunal Secretary. Any such intended change or addition shall only take effect in the arbitration subject to the approval of the Tribunal. The Tribunal may withhold approval of any intended change or addition to a party's legal representatives where such change or addition could compromise the composition of the Tribunal or the finality of any decision, order, or award (on the grounds of possible conflict or other like impediment).

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

- 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. Following registration of the Request for arbitration, by letter of 28 June 2023, ICSID requested that the Claimants pay US\$150,000 to cover the initial costs of the proceeding through the first session. ICSID received the Claimants' payment on 14 July 2023. Upon the constitution of the Tribunal, by letter of 12 December 2023, ICSID requested that the parties pay US\$300,000 to defray the estimated costs of the subsequent phase of the proceeding. Payment made by the Claimants on 14 July 2023 is considered a partial payment toward that sum. At the date of the issuance of this Order, ICSID had not received the Respondent's payment.
- 10.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.
- 10.4. After the Award has been made, the ICSID Secretariat shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

11. Place of Proceeding and Hearings

Convention Articles 62 and 63; Arbitration Rule 32

- 11.1. Washington, D.C. shall be the place of the proceeding.
- 11.2. The Tribunal may hold in-person hearings at ICSID's headquarters in Washington, D.C., or any other place that it considers appropriate after consultation with the parties. The method of holding a hearing will be determined in accordance with §22.2.
- 11.3. The Tribunal Members may deliberate at any place and by any 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(s), Translation and Interpretation

Administrative and Financial Regulation 32; Arbitration Rule 7

- 12.1. English and Spanish are the procedural languages of the arbitration.

For Documents and Communications

- 12.2. The Tribunal and the Secretariat may communicate in either procedural language without the need to translate it into the other language.
- 12.3. Routine, administrative, or procedural correspondence addressed to or sent by the ICSID Secretariat by itself or on behalf of the Tribunal may be filed in either procedural language without the need to translate it into the other language.
- 12.4. Any document (*e.g.* written requests, applications, pleadings, expert opinions, witness statements, or supporting documents) may be filed in either procedural language. However, within 30 days following the corresponding submission, the party shall submit a courtesy translation into the other procedural language of the pleadings, witness statements and expert opinions. This does not apply to annexes or appendixes derived from pleadings, witness statements and expert opinion unless the Tribunal requires that a party translate specific documentation in whole or in part. If there is any inconsistency between the original document and the courtesy translation, the text of the document drafted in the original language will prevail over the courtesy translation.
- 12.5. Any document in a third language shall be accompanied by a translation into either procedural language, unless the Tribunal orders translation into both procedural languages. In the case of lengthy documents, where only one part is relevant, it is

Procedural Order No. 1

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.

- 12.6. Translations need not be certified, unless the translation is disputed and the Tribunal orders a party to provide a certified translation.
- 12.7. Documents exchanged between the parties pursuant to §17 below (Production of Documents) may be produced in the original language and need not be translated.

For Hearing

- 12.8. The parties will notify the Tribunal as soon as possible, and no later than at the case management for hearing organization (see §20 below), which witnesses or experts require interpretation.
- 12.9. The hearing will be conducted in Spanish and English with simultaneous interpretation from and into each procedural language.
- 12.10. The testimony of a witness who prefers to give evidence other than in English or Spanish shall be interpreted simultaneously into either procedural language, unless the Tribunal orders interpretation into both procedural languages.
- 12.11. 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.

For Tribunal's Documents Except the Award

- 12.12. The Tribunal may initially make any order or decision in English or Spanish and subsequently shall issue that order or decision in the other procedural language. Both versions of the order or decision shall be equally authentic.

For Tribunal's Award

- 12.13. The Tribunal shall render the award in English and Spanish simultaneously. Both language versions shall be equally authentic.

13. Routing of Communications

Arbitration Rule 6

- 13.1. The ICSID Secretariat shall be the channel of written communications between the parties and the Tribunal.

Procedural Order No. 1

- 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 and the Assistant.
- 13.3. Electronic versions of communications ordered by the Tribunal to be filed simultaneously, however, shall be transmitted to the Tribunal Secretary only, who shall send them to the opposing party, the Tribunal and the Assistant.
- 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.
- 13.5. The parties and their representatives shall not engage in any *ex parte* oral or written communications in connection with the subject-matter of the arbitration with any of the Members of the Tribunal.

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

- 14.1. By the relevant filing date, the parties shall:
 - 14.1.1. 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 attached to the pleading without supporting exhibits and without legal authorities ("**Email Filing**"); and
 - 14.1.2. By the end of the fifth (5) business day following the Email Filing referred above, the parties shall upload the pleading with all the supporting documentation to the file sharing platform that has been created by ICSID for purposes of this case ("Platform Filing").
 - 14.1.3. For the avoidance of doubt, the electronic filing process indicated in the preceding subparagraph is applicable both to the original language submission and to any subsequent translations agreed by the parties.
- 14.2. By the fifth business day following the Email Filing, the parties shall send hard copies (in A5 format, double sided) of their submissions, including witness statements, expert reports, and exhibits but not legal authorities to Prof. Dr. Schill at his address indicated at paragraph 2.4 above.
- 14.3. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable (i.e., OCR PDF or Word). Any spreadsheet or excel table shall be editable and all formulae visible; data used in the creation of spreadsheets and tables should indicate its source.

Procedural Order No. 1

- 14.4. 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, the pleading with which it was submitted, the language of the document, and shall follow the naming conventions contained in **Annex A**.
- 14.5. 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 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.
- 14.6. 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.
- 14.7. A filing shall be deemed timely if sent by a party before midnight, Mexico City time, on the relevant date. If a filing falls on a Saturday or Sunday, the relevant date is the subsequent business day.

15. Number and Sequence of Pleadings – Procedural Timetable
Arbitration Rule 30

- 15.1. The arbitration shall proceed in accordance with the Procedural Calendar attached hereto as **Annex B**, except if the Tribunal, upon a showing of good cause by either party, on the Tribunal's own initiative, or by mutual agreement of the parties, decides that this Procedural Timetable requires amendment.
- 15.2. The written submissions shall be submitted in accordance with Arbitration Rule 30.

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 §14 above.

Procedural Order No. 1

- 16.3. To avoid repetition and excess, if an exhibit to which a party relies on has been filed by the opposing party, it is expected that the party relying on it uses the same reference of the exhibit already in the file.
- 16.4. If an exhibit consists of more than one page, the relevant party shall refer to the specific page and/or paragraph number on which they rely, unless reference is made to the document as a whole.
- 16.5. 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.
 - 16.5.1. 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 describe the document in a manner that informs most or all the document.
 - 16.5.2. 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.
- 16.6. The Tribunal may call upon the parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 36(3).
- 16.7. Documents shall be submitted in the following form:
 - 16.7.1. The number of each Exhibit containing a document produced by the Claimants 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 the Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities etc.
 - 16.7.2. 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 numbering shall also indicate the language of the document *e.g.* C-0001-ENG for a document submitted only in English, C-0001-SPA for a document submitted only in Spanish and C-0001-ENG/SPA for a document submitted simultaneously in English and Spanish. 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 §16.7.4.

Procedural Order No. 1

- 16.7.3. A party may produce several attachments or annexes stemming from the same document within one Exhibit, numbering each attachment or annex of such Exhibit separately and consecutively, preceded by the reference of the relevant Exhibit (e.g., C-001.01; C-001.02 or R-001.01; R-001.02 and so forth).
- 16.7.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 16.8. 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.
- 16.9. The parties shall file all documents only once by submitting them with their pleadings so as to use the same Exhibit reference to the same document. Documents need not be resubmitted with witness statements even if referred to in such statements.
- 16.10. Demonstrative exhibits, i.e. documents compiling information in the record but not in the form presented, such as charts, may be used at a hearing, provided they (i) contain no new evidence; (ii) identify their source in the record; (iii) are submitted to the other party at the time specified in the relevant pre-hearing order; and (iv) are numbered consecutively with a number introduced by CD-, respectively RD-.
- 16.11. Demonstrative exhibits shall be distributed by the party intending to use them via an electronic mail sent to the entire case email distribution for each party, the Members of the Tribunals, the Tribunal Secretary, the Assistant, the court reporter and the interpreters as necessary, at least one hour prior to the use of the electronic exhibit.

17. Production of Documents

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

- 17.1. The Tribunal and the parties shall be guided by Articles 3 and 9 of the 2020 IBA Rules on the Taking of Evidence in International Arbitration (“IBA Rules”), in relation to document production in this case.
- 17.2. Each party may request the production of a reasonable number of documents from the other party in accordance with the procedural calendar for the arbitration. Requests for the production of documents shall be in writing and set forth reasons for the request in respect of each document or class of documents requested. Unless the requested party objects to production, it shall produce the requested documents within the applicable time limit.

Procedural Order No. 1

17.3. If the requested party objects to production, the following procedure shall apply:

- 17.3.1. The requested party shall submit a response stating which documents or class of documents it objects to producing. The response shall state the reasons for each objection.
- 17.3.2. The requesting party shall respond to the other party's objection, indicating, with reasons, whether it disputes the objection.
- 17.3.3. The parties shall submit all outstanding requests, objections, and responses to objections to the Tribunal for decision in tabular form pursuant to the model appended to this Procedural Order as **Annex C** (modified Redfern schedule). The parties shall use the same format throughout their exchange of requests, objections, and responses.
- 17.3.4. The Tribunal shall rule on any outstanding requests, and may for this purpose refer to the IBA Rules in regard to matters concerning the gathering or taking of evidence, that are not otherwise covered by this procedural order, the Arbitration Rules or NAFTA Chapter 11. Documents ordered by the Tribunal to be disclosed shall be produced within the time limit set forth in the procedural calendar.
- 17.3.5. The parties shall not copy the Tribunal on their correspondence or exchanges of documents in the course of the document production phase. Documents produced by the parties in response to document production requests shall only form part of the evidentiary record if a party subsequently submits them as exhibits to its written submissions or upon authorization of the Tribunal after the exchange of submissions.
- 17.3.6. Should a party fail to produce documents as ordered by the Tribunal, the Tribunal may draw the inferences it deems appropriate in relation to the documents not produced, taking into consideration all relevant circumstances.
- 17.3.7. If the Tribunal determines that a disputing party has failed to conduct itself in good faith or has in any way incurred in an abuse of process in the taking of evidence, the Tribunal may take such conduct into account when allocating the costs of the arbitration, including costs arising out of or in connection with the taking of evidence.
- 17.3.8. Documents shall be produced in electronic file format (PDF) and in searchable form (OCR) whenever possible. Spreadsheets shall be produced in Excel format whenever possible.

Procedural Order No. 1

17.3.9. Documents shall be made available to the requesting party by the due date using a suitable means of electronic communications, including a secure share site, and shall not be sent to the Tribunal Secretary.

18. Witness Statements and Expert Reports

Convention Article 43(a); Arbitration Rule 38

- 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 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 §16.5).
- 18.3. Each witness statement shall be signed and dated by the witness and include:
- 18.3.1. A disclosure statement detailing any past and present relations of the witness with any party, counsel or Member of the Tribunal;
- 18.3.2. A description of the witness' position and qualifications, if relevant;
- 18.3.3. A full and detailed description of the facts, and the source of the witness's information as to those facts, sufficient to serve as that witness's evidence in the matter in dispute;
- 18.3.4. Any documents on which the witness relies that have not already been submitted (which shall be submitted with sequential numbering as documents);
- 18.3.5. A statement as to the language in which the witness statement was originally prepared and the language in which the witness anticipates giving testimony at the hearing;
- 18.3.6. A declaration regarding whether the witness received any form of compensation for his or her testimony; and
- 18.3.7. An affirmation of the truth of the witness statement.
- 18.4. Witness Statements shall have consecutive numbering on pages, headings and paragraphs.

Procedural Order No. 1

- 18.5. It shall be proper for a party, its officers, employees, legal advisors or other representatives to interview its witnesses or potential witnesses and to discuss their prospective testimony with them.
- 18.6. Expert reports shall be dated and signed by the expert or experts and contain:
 - 18.6.1. The full name of the expert;
 - 18.6.2. A disclosure statement detailing any past and present relations of the expert with any party, counsel or Member of the Tribunal;
 - 18.6.3. A brief description of the expert's qualifications;
 - 18.6.4. A brief description of the instructions pursuant to which the expert is providing his or her opinions and conclusions;
 - 18.6.5. A statement of the expert's independence from the parties, their legal advisors and the Tribunal;
 - 18.6.6. A statement of the facts on which the expert is basing his or her expert opinions and conclusions;
 - 18.6.7. An executive summary of the expert's main findings;
 - 18.6.8. The expert's expert opinions and conclusions, including a description of the methods, evidence and information used in arriving at the conclusions;
 - 18.6.9. The documents relied on by the expert in the preparation of his or her report, which shall be provided as annexes to the report (which may have their own sequential numbering); any spreadsheet or table shall be editable and all formulae visible; data used in the creation of spreadsheets and tables should indicate its source;
 - 18.6.10. An affirmation of the expert's genuine belief in the opinions expressed in the report.
- 18.7. Expert reports shall have consecutive numbering of pages, headings and paragraphs, as well as a detailed table of contents.
- 18.8. Before or after the hearing, and after consultation with the parties, the Tribunal may request that the Experts file joint reports or individual supplementary reports to answer written questions from the Tribunal.

19. Examination of Witnesses and Experts

Arbitration Rule 38

- 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.
- 19.2. Each party may call one fact witness who can also be designated as a party representative. A fact witness who is also a party representative may only be present at the hearing after his or her examination has concluded. There is no limit on party representatives who are not fact witnesses. Each party shall be responsible for securing the appearance of its own witnesses at the hearing.
- 19.3. A party shall notify the opposing party which witnesses and experts it intends to call for cross-examination on the date specified in the Procedural Timetable. Shortly after the parties' notifications, the Tribunal will indicate which witnesses or experts, not called by the parties, it wishes to question, if any.
- 19.4. The Tribunal may disregard the testimony of a witness or expert called to testify at the hearing who fails to appear at the hearing without justified reasons.
- 19.5. Examination by video-conference may be permitted by agreement of the parties, or in absence of the agreement of the parties, at the discretion of the Tribunal.
- 19.6. The failure to cross-examine a witness or an expert or the partial cross-examination of a witness or an expert shall not imply an acceptance of the content of the corresponding witness statement or expert report. Each party remains free to challenge the content of the witness statement or expert report by all available means of evidence and the Tribunal remains free to assess the probative value of the witness statement or expert report in its discretion.
- 19.7. Witnesses and experts shall be examined by each party under the control of the Tribunal. The Tribunal may examine the witness or expert at any time during the hearing. Witness and experts shall make a declaration of truthfulness.
- 19.8. Direct examination is given in the form of witness statements and expert reports. However, the party presenting the witness may conduct a brief direct examination at the hearing. Experts may summarize their reports and findings, either through direct examination or in the form of a brief presentation. In lieu of direct examination, an expert may present his or her report to the Tribunal (potentially aided by a PowerPoint presentation), for no longer than 30 minutes. Any witness or expert called for direct examination may be cross-examined by the other party and questioned by the Tribunal.
- 19.9. As a general rule the scope of cross-examination will be limited to the contents of the witness statement or expert report. Re-direct examination shall as a general rule

Procedural Order No. 1

be limited to the subject of cross-examination. At the request of any party and for good cause, the Tribunal may expand the scope of the cross-examination or the re-direct examination.

- 19.10. The Tribunal may, after consultation with the parties, request that witnesses or experts be examined jointly by the Members of the Tribunal during the hearing.
- 19.11. Witnesses shall be allowed in the hearing room after having given their oral evidence. Experts shall be allowed in the hearing room, and shall be permitted access to the hearing transcripts, at any time.
- 19.12. Prior to their examination, witnesses shall not be present in the hearing, discuss the examination of any other witness who has already appeared before the Tribunal, read any transcript of oral arguments or oral testimony, or listen to or watch any audio or video recording of the oral arguments or of the oral testimony.
- 19.13. A fact witness, who is not a party representative, shall not be present in the hearing room during oral testimony and arguments, or read any transcript of any oral testimony or argument, or listen to or watch any audio or video recording of the oral arguments or oral testimony, prior to his or her examination. A fact witness who is a party representative shall be examined first.

20. Pre-Hearing Organizational Meetings

Arbitration Rule 31

- 20.1. A pre-hearing organizational meeting shall be held at a date determined by the Tribunal after consultation with the parties. It shall comprise a 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.
- 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.
- 20.3. Following the pre-hearing organizational meeting, a procedural order will be issued by the Tribunal reflecting the decisions made in preparation for the hearing.

21. Case Management Conferences

Arbitration Rule 31

21.1. The Tribunal may convene on its own initiative or if the parties so request case management conferences with the parties in accordance with ICSID Arbitration Rule 31 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).

22. Hearings

Arbitration Rule 32

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

22.2. The default rule is that all hearings on significant substantive matters are to be held in-person, unless the parties agree or the Tribunal decides to hold the hearings by another means of communication. An in-person hearing shall be held at a place to be determined in accordance with §11.1 above.

22.3. Having due regard to the views of the parties and the specific circumstances of the case, and subject to § 22.2, the Tribunal may hold a hearing remotely or in a hybrid form.

22.4. The hearings shall take place on the dates set forth in **Annex B**, or as otherwise confirmed by the tribunal having due regard to the views of the parties. The Members of the Tribunal shall reserve at least one day after the hearing to determine the next steps and to hold deliberations.

22.5. Allocation of time and other procedural issues related to the hearing will be discussed by the parties and the Tribunal at a later stage.

22.6. Hearings shall be closed to the public. Provisions shall be made for representatives of the Non-Disputing NAFTA Parties to attend the hearing upon request.

23. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

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

Procedural Order No. 1

- 23.2. 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.
- 23.3. 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 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.

24. Post-Hearing Memorials and Statements of Costs

Convention Article 44; Arbitration Rules 51

- 24.1. The Tribunal will consult with the parties at the appropriate stage, and issue directions in relation to whether, and if so by which dates, the parties shall submit post-hearing memorials and a statement of costs.

25. Transparency Matters

Convention Article 48(5), Arbitration Rules 62-66; FTC Note of Interpretation of July 31, 2001, Section A: Access to Documents

- 25.1. The parties agree that the transparency regime governing these proceedings is dealt with in Procedural Order No. 2.
- 25.2. For the sake of clarity, the parties’ pleadings and written submissions, witness statements, expert reports, transcripts, documentary evidence and legal authorities, or excerpts thereof, shall not be subject to publication.

26. Non-Disputing NAFTA Parties

NAFTA Articles 1127, 1128 and 1129

- 26.1. Non-Disputing NAFTA Parties may make submissions to the Tribunal within the meaning of NAFTA Article 1128 by the date indicated in **Annex B**.
- 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, written submissions and exhibits, including witness statements and expert reports. Non-Disputing NAFTA Parties shall be made aware of Procedural

Procedural Order No. 1

Order No. 2, and pursuant to Article 1129 of the NAFTA, shall treat all information received from the Respondent as if they were a disputing party, notably in respect of protection of confidential information.

- 26.3. The disputing parties shall have the opportunity to comment on any NAFTA Article 1128 submission by the date set forth in **Annex B**.

27. Amicus Curiae Participation

FTC Statement on Non-Disputing Party Participation dated 7 October 2003; Arbitration Rule 67

- 27.1. If a request for the submission of an *amicus curiae* brief is filed by the date indicated in **Annex B**, the Tribunal will give the appropriate directions in the exercise of its powers under Arbitration Rule 67 and take into consideration the recommendation of the North American Free Trade Commission on Non-Disputing Party participation of 7 October 2003.
- 27.2. By the relevant dates indicated in **Annex B**, the parties shall have the opportunity to: (1) make submissions on any request for the submission of an *amicus curiae* brief; and (2) file simultaneous observations on issues raised in any *amicus curiae* brief submitted pursuant to a decision of the Tribunal.
- 27.3. If either party *intends* to rely at any hearing on a document referenced in an *amicus curiae* submission which is not already part of the record, that party must notify the other party and the Tribunal at least 24 hours in advance of the intended use. The notice shall specify the reference number to be given to the document. If the notice is provided by email, an electronic copy of the relevant document shall be attached to the email, and a hard copy of the document shall be submitted in advance of its use at the hearing.

28. Data Privacy and Cybersecurity

- 28.1. 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.
- 28.2. 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 Tribunal for specific data protection measures to be put in place.

- 28.3. 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.

29. Amicable Dispute Settlement

- 29.1. 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 proceeding.

[signed]

[signed]

Prof. Dr. Silvina S. González Napolitano
Arbitrator

Prof. Dr. Stephan W. Schill
Arbitrator

[signed]

Ms. Dyalá Jiménez
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
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-####–LANGUAGE
	R-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANTS’ FACTUAL EXHIBITS
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	RESPONDENT’S FACTUAL EXHIBITS
	<i>R-0001-FR</i> <i>R-0002-SPA</i>
Legal Authorities	CL-####–LANGUAGE
	RL-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANTS’ LEGAL AUTHORITIES
	<i>CL-0001-ENG</i> <i>CL-0002-FR</i>
	RESPONDENT’S LEGAL AUTHORITIES
<i>RL-0001-SPA</i> <i>RL-0002-ENG</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
	<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,	WITNESS/EXPERT INITIALS–###
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i> <i>MJ-0001</i>

Procedural Order No. 1 – Annex A

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>
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-[Claimants]-SPA</i>
	<i>Request for Stay of Enforcement-FR</i>
	<i>Request for Discontinuance-[Claimants]-ENG</i>
	<i>Post-Hearing Brief-[Claimants]-SPA</i>
	<i>Costs Submissions-[Respondent]-ENG</i>
<i>Observations to Request for [XX]-[Claimants]-SPA</i>	

Annex B – Timetable¹

Scenario 1: Request for bifurcation filed and granted.

No.	Event	Author	Date	Interval
1.	Memorial on the Merits (including jurisdiction and quantum)	Claimants	28 May 2024	120 days
2.	Identification of Preliminary Objections and Request for Bifurcation	Respondent	2 July 2024	35 days / 5 weeks
3.	Response to the Request for Bifurcation	Claimants	6 August 2024	35 days / 5 weeks
4.	Decision on Bifurcation with reasons	Tribunal	3 September 2024	28 days / 4 weeks
5.	Memorial on Jurisdiction	Respondent	5 November 2024	9 weeks / 63 days from Decision on Bifurcation
6.	Counter-Memorial on Jurisdiction	Claimants	7 January 2025	9 weeks / 63 days from Memorial

¹ In case of discrepancy between the date and the interval, the interval prevails.

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
7.	Requests for Production of Documents	Parties	28 January 2025	21 days / 3 weeks from Counter-Memorial on Jurisdiction
8.	Responses and/or Objections to Requests for Production of Documents	Parties	11 February 2025	14 days / 2 weeks from Requests for Production of Documents
9.	Replies to Objections to Requests for Production of Documents	Parties	21 February 2025	10 days from Responses to Requests for Production of Documents
10.	Production of Documents which are not subject to Objections	Parties	28 March 2025	5 weeks from Replies to Objections
11.	Decision on Objections to Requests for Production of Documents	Tribunal	28 March 2025	5 weeks from Replies to Objections
12.	Production of Documents ordered by Tribunal	Parties	11 April 2025	14 days / 2 weeks from Decision on Objections
13.	Reply on Jurisdiction	Respondent	12 May 2025	30 days from Conclusion of document production phase
14.	Rejoinder on Jurisdiction	Claimants	11 June 2025	30 days from Reply

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
15.	Applications for leave to file non-disputing party (amicus) submissions, if any	TBD	25 June 2025	14 days/ 2 weeks from Rejoinder on jurisdiction
16.	Submissions under NAFTA Article 1128, if any	TBS	25 June 2025	14 days/ 2 weeks from Rejoinder on jurisdiction
17.	Comments on applications for leave to file non-disputing party (amicus) submissions, if any	Parties	9 July 2025	14 days /2 weeks from application for leave to file non-disputing party submissions
18.	Comments on NAFTA Article 1128 submissions	Parties	16 July 2025	21 days / 3 weeks from submission of NAFTA Article 1128
19.	Decision on applications for leave to file non-disputing party (amicus) submissions, if any	Tribunal	13 August 2025	28 days / 4 weeks from comments on NAFTA Article 1128 submissions
20.	Parties to identify witnesses and experts for cross-examination	Parties	27 August 2025	14 days / 2 weeks from decision on applications for leave to file non-disputing party submissions

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
21.	Pre-hearing Conference	Parties and Tribunal	3 September 2025	7 days / 1 week from the moment when Parties identify witnesses and experts for cross-examination
22.	Hearing on Jurisdiction	Parties and Tribunal	The week of 13 October 2025	18 weeks from Rejoinder on Jurisdiction
23.	Post-Hearing Submissions	Parties	TBD	TBD
24.	Cost Statements	Parties	TBD	TBD
25.	Decision or Award on Jurisdiction ²	Tribunal	TBD	TBD

² If the bifurcated phase concludes with a Decision on Jurisdiction, under which jurisdiction is affirmed, the Tribunal will consult promptly with the parties to develop a further procedural schedule to govern the remainder of the proceedings.

Scenario 2: Request for bifurcation filed but denied.

No.	Event	Author	Date	Interval
1.	Memorial on the Merits (including jurisdiction and quantum)	Claimants	28 May 2024	120 days from 1 st session
2.	Identification of Preliminary Objections and Request for Bifurcation	Respondent	2 July 2024	35 days / 5 weeks from Memorial
3.	Response to the Request for Bifurcation	Claimants	6 August 2024	35 days / 5 weeks from Request for Bifurcation
4.	Decision on Bifurcation with reasons	Tribunal	3 September 2024	28 days / 4 weeks from Response to Request for Bifurcation
5.	Counter-Memorial	Respondent	6 January 2025	125 days from Decision on Bifurcation [due to Holidays]
6.	Requests for Production of Documents	Parties	27 January 2025	21 days / 3 weeks from Counter-Memorial
7.	Responses and/or Objections to Requests for Production of Documents	Parties	10 February 2025	14 days / 2 weeks from Requests for Production of Documents

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
8.	Replies to Objections to Requests for Production of Documents	Parties	20 February 2025	10 days / 1.43 weeks from Responses to Requests for Production of Documents
9.	Production of Documents which are not subject to Objections	Parties	27 March 2025	5 weeks from Replies to Objections
10.	Decision on Objections to Requests for Production of Documents	Tribunal	27 March 2025	5 weeks from Replies to Objections
11.	Production of Documents ordered by Tribunal	Parties	10 April 2025	14 days / 2 weeks from Decision on Objections
12.	Reply	Claimants	9 July 2025	90 days / 12.86 weeks from Decision on Production of Documents
13.	Rejoinder	Respondent	7 October 2025	90 days from Reply
14.	Applications for leave to file non-disputing party (amicus) submissions, if any	TBD	21 October 2025	14 days/ 2 weeks from Rejoinder
15.	Submissions under NAFTA Article 1128, if any	TBS	21 October 2025	14 days/ 2 weeks from Rejoinder

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
16.	Comments on applications for leave to file non-disputing party (amicus) submissions, if any	Parties	4 November 2025	14 days / 2 weeks from application for leave to file non-disputing party submissions
17.	Comments on NAFTA Article 1128 submissions	Parties	11 November 2025	21 days / 3 weeks from submission of NAFTA Article 1128
18.	Decision on applications for leave to file non-disputing party (amicus) submissions, if any	Tribunal	9 December 2025	28 days / 4 weeks from comments on NAFTA Article 1128 submissions
19.	Parties to identify witnesses and experts for cross-examination	Parties	23 December 2025	14 days / 2 weeks from decision on applications for leave to file non-disputing party submissions
20.	Pre-hearing Conference	Parties and Tribunal	12 January 2026	20 days from the moment when Parties identify witnesses and experts for cross-examination
21.	Hearing	Parties and Tribunal	The week of 23 February 2026	19.85 weeks/139 days from Rejoinder

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
22.	Post-Hearing Submissions	Parties	TBD	TBD
23.	Cost Statements	Parties	TBD	TBD

Scenario 3: No request for bifurcation of jurisdiction.

No.	Event	Author	Date	Interval
1.	Memorial on the Merits (including jurisdiction and quantum)	Claimants	28 May 2024	120 days from 1 st session
2.	Counter-Memorial	Respondent	25 September 2024	120 days from Memorial
3.	Requests for Production of Documents	Parties	16 October 2024	21 days / 3 weeks from Counter-Memorial
4.	Responses and/or Objections to Requests for Production of Documents	Parties	30 October 2024	14 days / 2 weeks from Requests for Production of Documents
5.	Replies to Objections to Requests for Production of Documents	Parties	11 November 2024	10 days / 1.43 weeks from Responses
6.	Production of Documents which are not subject to Objections	Parties	9 December 2024	28 days from Replies to Objections
7.	Decision on Objections to Requests for Production of Documents	Tribunal	9 December 2024	28 days from Replies to Objections
8.	Production of Documents ordered by Tribunal	Parties	23 December 2024	14 days / 2 weeks from Decision on Objections
9.	Reply	Claimants	10 March 2025	90 days / 12.86 weeks from Decision on Production of Documents

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
10.	Rejoinder	Respondent	9 June 2025	90 days / 12.86 weeks from Reply
11.	Applications for leave to file non-disputing party (amicus) submissions, if any	TBD	23 June 2025	14 days/ 2 weeks from Rejoinder
12.	Submissions under NAFTA Article 1128, if any	TBD	23 June 2025	14 days/ 2 weeks from Rejoinder
13.	Comments on applications for leave to file non-disputing party (amicus) submissions, if any	Parties	7 July 2025	14 days /2 weeks from application for leave to file non-disputing party submissions
14.	Comments on NAFTA Article 1128 submissions	Parties	14 July 2025	21 days / 3 weeks from submission of NAFTA Article 1128
15.	Decision on applications for leave to file non-disputing party (amicus) submissions, if any	Tribunal	11 August 2025	28 days / 4 weeks from comments on NAFTA Article 1128 submissions
16.	Parties to identify witnesses and experts for cross-examination	Parties	25 August 2025	14 days / 2 weeks from decision on applications for leave to file non-disputing party submissions

Enerflex US Holdings Inc. and Exterran Energy Solutions, L.P. v. United Mexican States
(ICSID Case No. ARB/23/22)

Procedural Order No. 1

No.	Event	Author	Date	Interval
17.	Pre-hearing Conference	Parties and Tribunal	1 September 2025	7 days / 1 week from the moment when Parties identify witnesses and experts for cross-examination
18.	Hearing	Parties and Tribunal	The week of 13 October 2025	18 weeks from Rejoinder
19.	Post-Hearing Submissions	Parties	TBD	TBD
20.	Cost Statements	Parties	TBD	TBD

Annex C - Model Redfern Schedule For Document Requests

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			