

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

TMA Australia Pty Ltd and others

v.

Republic of the Philippines

(ICSID Case No. ARB/24/41)

PROCEDURAL ORDER NO. 6

(Organization of the Hearing on the Bifurcated Objection)

Members of the Tribunal

Ms. Meg Kinnear, President of the Tribunal

Dr. Bernardo M. Cremades, Arbitrator

Mr. J. Christopher Thomas KC, Arbitrator

Assistant to the Tribunal

Dr. Randi Ayman

Secretary of the Tribunal

Mr. Yuichiro Omori

June 17, 2026

A. INTRODUCTION

1. This Procedural Order (“**Order**”) sets out the procedural rules that the Parties have agreed upon and/or the Tribunal has determined will govern the conduct of the hearing on the Bifurcated Objection (“**Hearing**”).

B. DATE AND FORMAT OF THE HEARING, SCHEDULE AND ALLOCATION OF TIME

i. Date and format of the Hearing

2. The Hearing will be held virtually through Zoom on **June 18, 2026**, commencing at the following time:
 - Vancouver: 06:30AM
 - Washington DC: 09:30AM
 - New York: 09:30AM
 - London: 02:30PM
 - Madrid: 03:30PM
 - Luxembourg: 03:30PM
 - Manila: 09:30PM
 - Singapore: 09:30PM
 - Sydney: 11:30PM
3. The details to join the Zoom session have been shared by the ICSID Secretariat in advance of the Hearing.
4. The Hearing shall be conducted in English.

ii. Schedule of the Hearing

5. The order of proceedings, and a detailed Hearing schedule are indicated in the agenda incorporated as **Annex A**. As indicated in its email to the Parties dated March 30, 2026, the Tribunal expects a maximum of four hours for this Hearing.

iii. Allocation of time

6. The overall time at the Hearing shall be allocated to each Party in equal proportions – i.e., the Claimants will have a total of 1.5 hours and the Respondent a total of 1.5 hours for the entire Hearing, to be used as they see fit. The Tribunal may exercise its discretion taking into account all the relevant circumstances and the general obligations to conduct the proceeding in good faith and in an expeditious and cost-effective manner pursuant to Arbitration Rule 3(1). If the Tribunal gives additional time to one Party, an equal amount of time will be offered to the other Party.

7. The Tribunal emphasizes that the Parties are expected to use time efficiently and avoid unnecessary slippage (e.g., delays in returning from breaks).
8. Time taken by the Tribunal for its own questions during the Parties' presentations, as well time spent dealing with objections from the other Party shall not be counted against any Party's time.

iv. Manner of time-keeping

9. The Secretary of the Tribunal shall keep a chess clock account of time and advise the Parties of the total time used at the end of the Hearing day.

C. DOCUMENTS FOR USE AT THE HEARING

i. Electronic Hearing Bundle

10. There shall be a single **Electronic Hearing Bundle** to be prepared jointly by the Parties.
11. The Parties shall prepare the Electronic Hearing Bundle which shall contain an electronic copy of the entire case file (including pleadings, factual exhibits, legal authorities, and the Tribunal's decisions and orders to date) with a hyperlinked cumulative index of all documents. It shall be organized as follows:

Electronic Hearing Bundle:

01. Pleadings

- A. Claimants
- B. Respondent

02. Factual Exhibits

- A. Claimants
- B. Respondent

03. Legal authorities

- A. Claimants
- B. Respondent

06. Tribunal's Rulings and Procedural Orders

12. The Electronic Hearing Bundle, together with a hyperlinked index, has been uploaded by the Parties to a designated sub-folder in the BOX filesharing platform on **June 8, 2026**.
13. The court reporters, and any technical operator will also be provided a copy of the Electronic Hearing Bundle via the ICSID Secretariat.

14. Documents that are not included in the Electronic Hearing Bundle may not be presented at the Hearing, unless otherwise agreed by the Parties or authorized by the Tribunal, whether on an application by a Party or *proprio motu*.

ii. *Demonstrative exhibits and PowerPoint presentations*

15. Pursuant to paragraphs 17.8 through 17.10 of Procedural Order No. 1 dated March 28, 2025 (“PO1”), PowerPoint slides and demonstrative exhibits shall be used as follows:

15.1. 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, and (ii) do not contain information not in the record.

15.2. An electronic copy of each demonstrative exhibit, other than PowerPoint slides, 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 Tribunals, the Tribunal Secretary, to the court reporter and to the interpreters as necessary at a time to be coordinated between the Parties. The Parties shall make best efforts to provide any such exhibit to the Members of the Tribunal and the opposite Party by 6 PM EST on June 17, 2026.

15.3. In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the Parties shall upload such demonstrative to the case folder in the BOX filesharing platform, designating each with the corresponding CD-__ or RD-__ number.

16. Each Party shall be responsible for presenting demonstrative exhibits and evidence to the participants in the Hearing using the Zoom screen-sharing function.

D. WITNESSES AND EXPERTS FOR EXAMINATION

17. The Parties were invited to notify the Tribunal **by June 9, 2026**, whether they wished to cross-examine any witnesses, and the name of those witnesses, in accordance with paragraph 17 of PO1. Neither Party advised that it wished to cross-examine any witness.

E. PUBLIC ACCESS TO THE HEARING

18. The hearing shall not be open to the public given the objection of a Disputing Party.

F. RECORDING AND TRANSCRIPTION OF THE HEARING

19. Pursuant to paragraph 23.1 of PO1, the Hearing will be recorded. A copy of the recording shall be provided to the Parties and the Tribunal.

20. In accordance with paragraph 23.2 of PO1 and the Parties' emails of May 21 and 31, 2026, there will be transcription services, including real-time transcription and same-day delivery of electronic transcripts, for the Hearing which will be arranged by ICSID, to be provided by [REDACTED] ("Court Reporter"). The Court Reporter may seek to clarify the record from time to time during the course of the Hearing.
21. Pursuant to paragraph 23.3 of PO1, the Parties shall agree on any corrections to the transcripts within ten (10) days after they receive the sound recordings and the 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.
22. Instructions to access the real-time transcription will be provided by the Secretary of the Tribunal to the Hearing participants in advance of the Hearing.
23. Except for the Court Reporter, who will make their own audio recording of the Hearing, attendees will not otherwise make any audio or video of the Hearing or any part of it.

G. REMOTE HEARING ARRANGEMENTS

24. The following procedures shall be followed in order to ensure the good conduct of the remote Hearing:
 - i. Participants*
25. Each Party provided its respective List of Hearing Participants ("**List of Participants**") on June 16, 2026, using the template format provided by ICSID. If a Party wishes to include an additional person not identified on the approved list, such person may participate only with the agreement of all Parties or at the direction of the Tribunal. In any event, no individual shall be in attendance who is not announced at least 24 hours in advance.
26. Participants (with the exception of witnesses, if any) shall join the Zoom videoconference 30 minutes in advance of the start of the Hearing to facilitate the identification of Participants and to address any technical contingencies. Witnesses, if any, shall join the videoconference at least 20 minutes in advance of the start of their examination and will be held in the videoconference waiting room until permitted to enter the hearing room at the time of their testimony.
27. For ease of identification, Participants shall join the Zoom video conference using the following naming convention: first and last name preceded by [C] (for Participants for the Claimants), [R] (for Participants for the Respondent). Should there be Participants joining from a cluster, the conference room connection may be identified as "[C]/[R][cluster name]" as appropriate. Participants should join the Zoom platform using the name and affiliation indicated in the List of Participants.

28. Access to the Zoom video conference shall be restricted to those included in the List of Participants. Should any non-listed person attempt to connect to the Zoom video conference, the technical operator hosting the meeting will alert the Secretary of the Tribunal immediately and the Tribunal will promptly address the matter with the Parties. All Participants in the Hearing bear an ongoing duty to warn of the presence of any unauthorized and or non-listed person on the Zoom videoconference.

ii. Connectivity

29. Each Party is responsible for ensuring that its Participants who will attend the Hearing have reliable, high-speed Internet connections offering and suitable video and audio capabilities and equipment.
30. If a Party gets disconnected during its advocacy, the Tribunal will suspend the proceedings and wait for that Party to rejoin the proceedings. The Party who was disconnected may request the reading of the transcript on any points it has missed during such disconnection. The time during which the Party was disconnected will not be included in the time allotted to that Party for its presentation.

iii. Equipment and Set-Up

31. For optimum sound quality, especially for the audio recording and the transcription, the Tribunal highly recommends that the main speakers use an external microphone connection such as a headset through the USB or “mic” jack of the computer or laptop that they use for the Zoom videoconference. If not available, the main speakers are asked to speak close to the microphone.
32. Thirty (30) minutes before the start of the hearing, the parties may request a tech run in order to check its devices and whether any adjustments would have to be made.
33. While not indispensable, Hearing participants are advised to have at least two screens, and preferably three (it can be one device with multiple screens or a combination of devices including tablets) to facilitate simultaneous viewing of: (i) the Zoom video connection; (ii) the online real-time transcript; and (iii) offline documents.

iv. Videoconference Etiquette

34. Upon joining the Zoom videoconference, Participants using a computer should turn on both their audio and video and shall remain on the conference throughout the proceedings. The President of the Tribunal will invite each Party to introduce its team. After each Party has introduced all of its relevant Hearing Participants, the Hearing Participants who are not expected to speak shall turn off their video feed and mute their microphones.

35. Once admitted to the Zoom videoconference, and barring technical issues or other exceptional circumstances, lead counsel and Party representatives are to remain connected throughout the Hearing.
36. Other than for the introductions noted at paragraph 34 above, the Parties are advised to keep the number of video connections to a minimum, and, in any event, to Participants that will have an active speaking role (“**Active Participants**”) only. Passive attendees (“**Passive Participants**”) should join the meeting through their computer but connecting only their audio (i.e. turning their video off).
37. To facilitate accurate transcription, speakers are advised to speak at a reasonable speed and with pauses between phrases.

v. Break-out rooms

38. The Secretary of the Tribunal will arrange break-out rooms separate from the Hearing room, to be used securely by the Tribunal, Claimants and Respondent during breaks.

H. POST-HEARING BRIEFS AND COSTS STATEMENTS

39. In accordance with paragraph 24.3 of PO1, upon the conclusion of the Hearing, the Tribunal shall determine at its sole discretion, but after consultation with the Parties, whether Post-Hearing memorials are required. If the Tribunal orders the Parties to submit Post-Hearing Memorials, the Tribunal will give directions as to filing dates, and whether either Party shall be permitted to submit additional documentary evidence with its Post-Hearing Memorial.

I. DATA PRIVACY

40. The provisions of paragraph 26 of PO1 concerning data privacy and cybersecurity applies to the Hearing.

On behalf of the Tribunal,

Signed

Ms. Meg Kinnear
President of the Tribunal
Date: June 17, 2026

ANNEX A
Hearing Schedule

Thursday, June 18, 2026

***Proposal by Tribunal, which has been accepted by the Parties by their emails of June 9, 2026.**

<i>Hour (Washington DC time)</i>	<i>Duration</i>	PROCEDURAL STEP
(XX:XX)	(# hours/min.)	
9:30 - 9:45	15 minutes	Tribunal opening (5 minutes) Parties to introduce their team members (5 minutes each)
9:45 – 10:45	60 minutes	Respondent cross-examination of witnesses, if any, and presentation of its argument on the bifurcated objection
10:45 – 11:45	60 minutes	Claimant cross-examination of witnesses, if any, and presentation of its argument on the bifurcated objection
11:45- 11:55	10 minutes	Break
11:55 – 12:25	30 minutes	Respondent presentation of its argument in reply
12:25 – 12:55	30 minutes	Claimant presentation of its argument in reply
12:55 – 13:00	5 minutes	Determination re: PHB and closing of hearing