

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

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In the arbitration proceeding between

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Astracommex Regional Satellite Communication Inc.

(Claimant)

and

The Republic of Celestria

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(Respondent)

ICSID Case No. ARB/22/99

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PROCEDURAL ORDER NO. 1

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Members of the Tribunal

Mr. Jackson Cole, President of the Tribunal

Dr. Nika Havendale, Arbitrator

Prof. Brynn Sterling, Arbitrator

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Secretary of the Tribunal

Mr. Dapo Olasibi

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27 May 2023

Order

Pursuant to ICSID Arbitration Rules 27 and 29, this Procedural Order sets out the Procedural Rules that govern this arbitration. The Procedural Timetable is attached in **Annex A**.

1155 1. **Applicable Arbitration Rules**

Convention Article 44; Arbitration Rule 1

1.1 These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of 1 July 2022, and the Official Rules of the Foreign Direct Investment International Arbitration Moot (“**FDI Rules**”). In case of inconsistency between the two, the latter shall
1160 prevail to the extent to the inconsistency.

2. **Constitution of the Tribunal and Tribunal Members’ Declarations**

Arbitration Rule 21

2.1 The Tribunal was constituted on 24 April 2023 in accordance with the ICSID Convention and the ICSID Arbitration Rules. The parties confirmed that the Tribunal was properly
1165 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.

1170 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).

1175 3. **Presence and Quorum**

Arbitration Rule 33

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

- 1180 4. Rulings of the Tribunal
Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35
- 4.1 Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 4.2 The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.
- 1185 4.3 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. Representation of the Parties
Arbitration Rule 2
- 5.1 Each party shall be represented by its counsel (below) and may designate additional agents, 1190 counsel, or advocates by notifying the Tribunal and the Tribunal Secretary promptly of such designation.
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|-----------------------------------|----------------------------|
| <i>For the Claimant</i> | <i>For the Respondent</i> |
| Ms. Astrid Stellaris | Dr. Janis Pletnik |
| AstroJuris Arbitration | CosmoLex |
| 3 Saturn St., 48798 Stelaria | 5 lunar Blvd. |
| Nebuland | 98479 Starvalis Celestria |
| Tel: 019679876 | Tel: 098792764 |
| Email: astellaris@astrojuris.glob | Email: jpletnik@cosmos.net |
6. Apportionment of Costs and Advance Payments to ICSID – Division of Advances
Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50
- 1195 6.1 The parties shall cover the direct costs of the proceedings in equal parts, without prejudice to the final decision of the Tribunal as to the allocation of costs.
7. Place of Proceeding and Hearings
Convention Articles 62 and 63; Arbitration Rule 32
- 7.1 Berlin, Germany, shall be the place of the proceeding.
- 1200 7.2 The Tribunal may hold in-person hearings at any other place that it considers appropriate.
- 7.3 The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

8. Procedural Language(s), Translation and Interpretation
Arbitration Rule 7

- 1205 8.1 English is the procedural language of the arbitration.
- 8.2 Documents filed in any other language must be accompanied by a translation into English.
- 8.3 It is sufficient to translate only the relevant part of a supporting document, unless the Tribunal orders a party to provide a fuller or a complete translation.

9. Production of Documents

1210 *Convention Article 43(a); Arbitration Rules 5 and 36-40*

- 9.1 On the date determined in Annex A, each Party may serve a request for production of documents on the requested Party. The request shall be made in the form of the Schedule attached in Annex B, in both Word and PDF format, and shall not be copied to the Tribunal or the Tribunal Secretary.
- 1215 9.2 On the date determined in Annex A, the requested Party shall, using the schedule provided in Annex B, provide the requesting Party with reasoned objections for its refusal to produce responsive documents.
- 9.3 On the date determined in Annex A, the requested Party shall produce the requested documents to which it has not filed any objection.
- 1220 9.4 On the date determined in Annex A, the requesting Party shall reply to the requested Party's objections in that same schedule, and if disagreements cannot be resolved, shall submit the schedule to the Tribunal, with a copy to the requested Party (in both Word and PDF formats).
- 9.5 The Tribunal will make its best efforts to rule on the objections in a timely manner.
- 1225 9.6 Neither Party shall be permitted to submit additional requests to produce documents, save under exceptional circumstances at the discretion of the Tribunal upon a reasoned written request followed by observations from the requested Party.

10. Submission of Documents

Convention Article 44; Arbitration Rule 5; FDI Rule 6.1

- 1230 10.1 The Memorial and Counter-Memorial shall be accompanied by the documentary evidence relied upon by the parties, including exhibits and legal authorities.

10.2 The Memorial and Counter-Memorial must be contained in a single file and submitted in PDF format.

10.3 Equipment or software failure is not considered as an excuse for improper formatting or late submission of the Memorial and Counter-Memorial.

10.4 The Parties may not revise, substitute, delete, or in any other manner alter the Memorial and Counter-Memorial once submitted.

10.5 The Memorial and Counter-Memorial shall comply with FDI Rules 6.2 through 6.7.

11. Hearings

Arbitration Rule 32, FDI Rule 7

11.1 The main hearing may be held in-person or by any other means of communication as determined by the Tribunal.

11.2 The main hearing shall take place in Berlin on 1-4 November 2024.

11.3 The main hearing will address the following issues:

- i. Whether the Tribunal has jurisdiction *ratione temporis* under the BIT to hear the Claimant's claim; and
- ii. Whether the Respondent breached Article VII of the BIT.

11.4 As agreed between the Parties and the Tribunal, the evidence that may be relied on in the proceeding will be limited to (a) facts and assertions contained in the Request for Arbitration and the Response to it, the "Statement of Uncontested Facts" as will be agreed to between the parties, and appended to a Procedural Order (with no admission being made by either of the Parties as to correctness of the inferences from facts asserted by the other Party in its respective submission); (b) publicly available information (subject to the exception in paragraph 11.5); and (c) responses to the questions presented by the Parties' counsel in accordance with the procedure described below:

- i. By 1 June 2024 factual questions that require clarification shall be posted in accordance with the procedure described at <https://fdimoot.org/teams/clareqs.php>;

1260 ii. The Parties shall then confer and seek to agree as soon as practicable on the responses to those questions. The Parties’ agreed responses shall be appended to the case file at <https://fdimoot.org/problem.pdf>; and

 iii. By 15 August 2024 another set of factual questions may be posted in accordance with the same procedure referenced above. The responses to those questions shall be appended as described above.

1265 11.5 As agreed between the Parties and the Tribunal, the scientific evidence that may be relied on in the proceeding will be limited to those contained in paragraphs 11.4 (a) and (c).

On behalf of the Tribunal,

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Mr. Jackson Cole
President of the Tribunal
27 May 2023

Annex A – Procedural Timetable

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[intentionally omitted]

Annex B – Redfern schedule

| | A. | B. | C. | D. | E. |
|----|---|--|--|------------------------------------|-----------------|
| | Documents or Category of Documents Requested | Relevance and Materiality | Objections to the Request | Reply to the Objections | Decision |
| 1. | | | | | |