

**ARBITRATION UNDER THE UNCITRAL RULES**

**PCA CASE NO. 2010-13 / DUN-BZ**

**DUNKELD INTERNATIONAL INVESTMENT LTD (CLAIMANT)**

v.

**THE GOVERNMENT OF BELIZE (RESPONDENT)**

**ORDER NO. 7**

**11 March 2015**

**CONSIDERING:**

- (A) The Parties' respective communications of 5 March 2015, identifying the witnesses and experts they wished to cross-examine during the hearing and requesting to introduce additional documents into the record;
- (B) The Tribunal's communication of 5 March 2015, conveying a draft agenda for the pre-hearing telephone conference and inviting the Parties to confer and complete the agenda in advance of the conference;
- (C) The Tribunal's communication of 6 March 2015, fixing 10 March 2015 as the date for the pre-hearing telephone conference;
- (D) The Tribunal's communication of 9 March 2015, conveying a spreadsheet for time allocation during the hearing and inviting the Parties to provide their estimates for the time required for each phase of the hearing;
- (E) The Parties' joint communication of 10 March 2015, setting out their respective positions on the issues identified in the Tribunal's draft agenda and providing a completed spreadsheet with the Parties' estimates for the allocation of time;
- (F) The telephone conference held with the Parties on 10 March 2015.

**THE ARBITRAL TRIBUNAL HEREBY DECIDES AS FOLLOWS:**

**1. Venue**

- 1.1 The hearing will take place, as previously scheduled, from **7-10 April 2015** at the Hyatt Regency Miami, 400 South East Second Avenue, Miami, Florida, USA, 33131.
- 1.2 The previously reserved hearing date of Saturday, 11 April 2015 is hereby **vacated**.

1.3 The PCA will coordinate with the Parties regarding all necessary logistical arrangements.

## 2. Daily Schedule

2.1 The daily schedule will be as follows:

<b>Time</b>	<b>Event</b>
9:30 am – 11:00 am	Hearing
<i>11:00 am – 11:15 am</i>	<i>Break</i>
11:15 am – 12:45 pm	Hearing
<i>12:45 pm – 1:45 pm</i>	<i>Lunch</i>
1:45 pm – 3:15 pm	Hearing
<i>3:15 pm – 3:30 pm</i>	<i>Break</i>
3:30 pm – 5:00 pm	Hearing

2.2 The Tribunal may modify the daily schedule as necessary in the course of the hearing, in consultation with the Parties.

## 3. Hearing Sequence

3.1 The Hearing will proceed in the following sequence:

- a) The Tribunal's opening remarks and procedural issues;
- b) The Claimant's opening argument;
- c) The Respondent's opening argument;
- d) The Examination of Mr. Dean Boyce;
- e) The Examination of Ms. Angela Entwistle;
- f) The Examination of Mr. Joseph Waight;
- g) The Examination of Mr. Alastair Macpherson;
- h) The Examination of Dr. Richard Hern;
- i) The Claimant's closing argument;
- j) The Respondent's closing argument;
- k) Any remaining issues.

3.2 The opening arguments shall last no longer than three hours per Party.

3.3 The closing arguments shall last no longer than one and a half hours per Party.

3.4 The Parties' estimates of the time required for the examination of witnesses are set out in the table enclosed with this order as Annex A. The Parties will ensure that their

witnesses and experts are present and available on the dates and at the times anticipated by Annex A.

- 3.5 The PCA will maintain a running count of the time used by the Parties. The allocation of time may be adjusted in consultation with the Parties during the course of the hearing.

#### **4. Witnesses**

- 4.1 Through correspondence exchanged on 5 March 2015, the Parties have identified the witnesses and experts they wish to cross-examine during the hearing.
- 4.2 The witnesses and experts presented by the Parties will be called for examination in the following order: Mr. Dean Boyce, Ms. Angela Entwistle, Mr. Joseph Waight, Mr. Alastair Macpherson, Dr. Richard Hern.
- 4.3 Before being called for examination, a witness or expert may be present in the hearing room. Paragraph 9.10 of Annex A to Order No. 1 is accordingly modified in this respect.
- 4.4 The examination of each Party's expert will begin with a presentation of up to 30 minutes summarizing his reports, following which the Party presenting the expert may directly examine him for up to 15 minutes. The Parties shall confer and arrange for any slides used in the course of an expert's presentation to be shared with the other Party by an appropriate point in advance of the examination.
- 4.5 The Tribunal may recall a witness or expert for further examination at any point during the hearing.
- 4.6 Before giving evidence, each witness or expert will make the declaration set out in paragraph 9.9 of Annex A to Order No. 1. In the case of a witness: "I solemnly declare upon my honour and conscience that I shall speak the truth, the whole truth and nothing but the truth." In the case of an expert: "I solemnly declare upon by honour and conscience that my statement will be in accordance with my sincere belief".

#### **5. Transcription**

- 5.1 A Livenote transcript will be kept throughout the hearing and a daily transcript will be provided at the end of each hearing day in searchable, condensed, four-to-a-page format.
- 5.2 The Parties will notify the PCA, in the course of the hearing, of any corrections that may be required to the transcript.

## 6. Cut-off for Additional Evidence

- 6.1 The additional documentary evidence enclosed with the Parties' respective letters of 5 March 2015 is admitted to the record.
- 6.2 Pursuant to the Parties' agreement, the documents disclosed in the response to the Parties' respective requests for the production of documents shall be considered to be part of the record and may be freely relied upon by either Party. The Parties shall confer with respect to the exhibit numbers to be assigned to such documents.
- 6.3 Hereafter, additional documentary evidence will be admitted only in extraordinary circumstances and upon a showing of good cause.

## 7. Common Bundle

- 7.1 As agreed by the Parties, the Common Bundle will comprise:
- a) A General Bundle containing the Claimant's and Respondent's Exhibits and Authorities. This bundle will consist of the hard copy bundles of exhibits and authorities already provided to the Tribunal. The Parties will update the covers and spines to reflect that they are part of the Common Bundle and will update some of the Respondent's exhibits with paginated versions. This bundle will also contain the additional documents exchanged on 5 March 2015.
  - b) A Disclosure Bundle containing the documents relevant to either Party's document requests, including the Redfern schedules and related correspondence, as well as documents produced in response.
  - c) A Pleadings Bundle consisting of the Notice of Arbitration, the Statement of Claim, the Statement of Defence, the Statement of Reply and the Rejoinder.
  - d) A Witness Statements Bundle consisting of the Parties' fact witness statements.
  - e) An Experts Bundle which will contain the expert reports. There will be separate bundles for the PwC exhibits and the NERA exhibits.
  - f) A Procedural Orders Bundle containing the Tribunal's procedural orders to date.
- 7.2 The Parties shall arrange for the production of the Common Bundle **as soon as possible** and will provide the Common Bundle to each arbitrator at the location discussed during the teleconference. The Parties will confer with the PCA in the event of any questions concerning the production or delivery of the Common Bundle.

7.3 The Common Bundle will be prepared in electronic form and in hard copy. The electronic version of the Common Bundle will be submitted on USB memory stick. The hard copies of the Common Bundle will be prepared in soft-cover A5 format and will be printed double-sided.

7.4 The Parties shall ensure that an additional hard copy of the Common Bundle is available during the hearing for use by witnesses.

## **8. Joint Chronological List of Exhibits**

8.1 The Parties will submit a joint chronological list of exhibits **as soon as possible** in conjunction with the Common Bundle and, in any event, by no later than **Tuesday, 31 March 2015**.

## **9. List of Dramatis Personae**

9.1 The Parties will provide an agreed list of *dramatis personae* **as soon as possible** and, in any event, by no later than **Tuesday, 31 March 2015**.

## **10. Demonstrative Exhibits and Visual Aids**

10.1 The PCA will arrange for the Parties to be able to project images during the hearing.

10.2 The Parties shall exchange demonstrative exhibits (other than opening statement PowerPoint presentations) on **Thursday, 2 April 2015** by **5 p.m. Eastern Time** and to exchange opening statement PowerPoint presentations on **Monday, 6 April 2015** by **10:00 a.m. Eastern Time**.

## **11. Post-Hearing Memorials**

11.1 The Parties and the Tribunal will confer with respect to the timing and scope of post-hearing memorials at the close of the day on Thursday, 9 April 2015.

## **12. Costs Submissions**

12.1 The Parties and the Tribunal will confer with respect to the timing and scope of costs submissions at the close of the day on Thursday, 9 April 2015.

On behalf of the Arbitral Tribunal,

A handwritten signature in black ink, appearing to read 'A. J. van den Berg', with a long horizontal stroke extending to the right.

Albert Jan van den Berg,  
Presiding Arbitrator

**Timing for Hearing**

No.	Statement/Witness	Party	Oral Argument		Direct examination		Cross-examination		Re-examination		Tribunal Time		Totals				Day
			Est	Act	Est	Act	Est	Act	Est	Act	Est	Act	Est	Est cum	Act	Act cum	
	Opening Statement	Cl.	180										180	180	0	0	Tuesday, 7 April
	Opening Statement	Resp.	180										180	360	0	0	Tuesday, 7 April
1	Dean Boyce	Cl.		15		75		20			15		125	485	0	0	Wednesday, 8 April
2	Angela Entwistle	Cl.		15		30		20			15		80	565	0	0	Wednesday, 8 April
3	Joseph Waight	Resp.		15		60		20			15		110	675	0	0	Wednesday, 8 April
4	Alastair Macpherson	Cl.		45		180		20			15		260	935	0	0	Wednesday, 8 April/Thursday, 9 April
5	Richard Hern	Resp.		45		180		20			15		260	1195	0	0	Thursday, 9 April
	Closing Statement	Cl.	90								20		110	1305	0	0	Friday, 10 April
	Closing Statement	Resp.	90								20		110	1415	0	0	Friday, 10 April
	Procedure										60		60	1475	0	0	
	Totals		540	0	135	0	525	0	100	0	175	0	1475	1475	0	0	

	Est	Act	Left
Total Cl.	645	0	645
Total Resp.	655	0	655
Total Tribunal	175	0	175
Grand Total	1475	0	
Hours	24.58	0.00	
Days	4.10	0.00	

Each day of **6** hours (i.e., **360** minutes) excluding lunch, breaks and change-over.