

ARBITRATION UNDER THE UNCITRAL RULES

PCA CASE NO. 2010-18 / BCB-BZ

BRITISH CARIBBEAN BANK LTD (CLAIMANT)

v.

THE GOVERNMENT OF BELIZE (RESPONDENT)

ORDER NO. 6

14 FEBRUARY 2014

CONSIDERING:

- (A) The Tribunal's communication of 22 January 2014, fixing 11 February 2014 as the date for the pre-hearing telephone conference;
- (B) The Tribunal's communication of 4 February 2014, 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 Parties' respective communications of 4 February 2014, identifying the witnesses they wished to cross-examine during the hearing;
- (D) The Tribunal's communication of 5 February 2014, 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' respective communications of 7 February 2014 concerning the allocation of time;
- (F) The Tribunal's communication of 8 February 2014, consolidating the Parties' estimates into a single spreadsheet;
- (G) The Parties' joint communication of 10 February 2014, setting out their respective positions on the issues identified in the Tribunal's draft agenda;
- (H) The telephone conference held with the Parties on 11 February 2014.

THE ARBITRAL TRIBUNAL HEREBY DECIDES AS FOLLOWS:**1. Venue**

- 1.1 The hearing will take place, as previously scheduled, from 17 to 21 March 2014 in the Sala de Audiencias of the Inter-American Court of Human Rights in San Jose, Costa Rica.
- 1.2 The PCA will coordinate with the Parties regarding all necessary logistical arrangements.

2. Daily Schedule

- 2.1 The daily schedule will be as follows:

Time	Event
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

3. Hearing Sequence

- 3.1 The Hearing will proceed in the following sequence:
- a) Tribunal's opening remarks and procedural issues;
 - b) Claimant's opening argument;
 - c) Respondent's opening argument;
 - d) Cross-examination of Mr. Philip Osborne;
 - e) Cross-examination of Mr. Joseph Waight;
 - f) Cross-examination of the Claimant's remaining witnesses;
 - g) Claimant's closing argument;
 - h) Respondent's closing argument;
 - i) Claimant's brief rebuttal;
 - j) Respondent's brief rebuttal;
 - k) Any remaining issues.

- 3.2 The opening arguments shall last no longer than two hours per Party.
- 3.3 The closing arguments shall last no longer than one hour per Party with the opportunity of brief rebuttals of 15 minutes for each 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 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.
- 3.6 The Tribunal does not presently anticipate that it will be necessary to convene on Friday, 21 March 2014, but will hold that day in reserve, in case of any unforeseen developments.

4. Witnesses

- 4.1 Through correspondence exchanged on 4 February 2014, the Parties have identified the witnesses they wish to cross-examine during the hearing.
- 4.2 The witnesses presented by the Parties will be called for examination in the following order: Mr. Philip Osborne, Mr. Joseph Waight, Mr. Stewart Howard, Mr. Andrew Ashcroft, Mr. Dean Boyce, and Mr. Lyndon Giuseppi.
- 4.3 Before being called for examination, a witness will not be present in the hearing room during the examination of other witnesses, nor may a witness familiarize himself with the recorded or transcribed testimony of another witness. After having been called for examination, a witness may remain in the hearing room during the examination of other witnesses.
- 4.4 The Tribunal may recall a witness for further examination at any point during the hearing.
- 4.5 Before giving evidence, each witness will make the declaration set out in paragraph 8.9 of Order No. 1: "I solemnly declare upon my honour and conscience that I shall speak the truth, the whole truth and nothing but the truth."

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, on a daily basis, of any corrections that may be required to the transcript of the previous day.

6. Cut-off Date for Additional Evidence

- 6.1 Any further documentary evidence must be submitted no later than **Monday, 10 March 2014** and must be accompanied by an application indicating the relevance of the document and the reason it was not included in the Party's earlier submissions.
- 6.2 After 10 March 2014, additional documentary evidence will be admitted only in extraordinary circumstances and upon a showing of good cause.

7. Joint Chronological List of Exhibits

- 7.1 The Parties will submit a joint chronological list of exhibits by **Wednesday, 26 February 2014**. This list may be updated or supplemented, if necessary, by **Friday, 7 March 2014**.

8. Core Bundle

- 8.1 The Parties will prepare a common Core Bundle of documentary exhibits by **Wednesday, 26 February 2014**. The Core Bundle may be updated or supplemented, if necessary, by **Friday, 7 March 2014**.
- 8.2 The Core Bundle will be prepared in electronic form and in hard copy. The electronic version of the Core Bundle will be submitted on USB memory stick with a hyperlinked PDF index. The hard copies of the Core Bundle will be prepared in soft-cover A5 format and will be printed double-sided, if possible using 60g paper.
- 8.3 The Parties shall ensure that an additional hard copy of the Core Bundle is available during the hearing for use by witnesses.

9. List of Dramatis Personae

- 9.1 The Parties will provide an agreed list of *dramatis personae* by **Monday, 10 March 2014**.

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 Should either Party wish to make use of demonstrative exhibits or visual aids in the course of the hearing, they should be provided to the other Party not later than 10 pm on the day prior to their intended use.

11. Post-Hearing Memorials

- 11.1 The Parties will submit post-hearing memorials simultaneously to the PCA on **Friday, 4 April 2014**. After receiving both Parties' post-hearing memorials, the PCA will distribute copies to the Parties and the Tribunal.
- 11.2 Post-hearing memorials will be limited to 50 pages and will address the points arising from the hearing that the Party considers to be of particular importance. Moreover, they should address any questions the Tribunal may request the Parties to consider in their post-hearing memorials. The Parties are requested to refrain from re-stating their respective cases as a whole or duplicating arguments already set out in earlier submissions.
- 11.3 The Parties may submit replies to the post-hearing memorial of the other Party simultaneously to the PCA on **Friday, 11 April 2014**. After receiving both Parties' replies, or an indication that a Party does not intend to submit a reply, the PCA will distribute copies to the Parties and the Tribunal.
- 11.4 Replies to the post-hearing memorials will be limited to 25 pages and will address only points raised in the post-hearing memorial of the other Party.

12. Costs Submissions

- 12.1 The Parties will simultaneously make cost submissions to the PCA on **Friday, 18 April 2014**. After receiving both Parties' costs submissions, the PCA will distribute copies to the Parties and the Tribunal.
- 12.2 Costs submissions will be limited to 10 pages in length.

On behalf of the Arbitral Tribunal,

A handwritten signature in black ink, appearing to be 'A. J. van den Berg', written in a cursive style.

Albert Jan van den Berg,
Presiding Arbitrator

**Timing for Hearing
British Caribbean Bank
v
Belize**

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 cum	Act cum			
1	Opening Statement	Cl.	120										120	120	0	0	Monday, 17 March 2014
2	Opening Statement	Resp.	120										120	240	0	0	Monday, 17 March 2014
3	Philip Osborne	Cl.			5		90		10			5	110	350	0	0	Monday, 17 March 2014
8	Joseph Waight	Resp.			5		150		10			5	170	520	0	0	Tuesday, 18 March 2014
4	Stewart Howard	Cl.			5		90		10			5	110	630	0	0	Tuesday, 18 March 2014
5	Andrew Ashcroft	Cl.			5		90		10			5	110	740	0	0	Tuesday, 18 March 2014
6	Dean Boyce	Cl.			5		90		10			5	110	850	0	0	Wednesday, 19 March 2014
7	Lyndon Giuseppe	Cl.			5		90		10			5	110	960	0	0	Wednesday, 19 March 2014
9	Tribunal Questions	Trib.										30	30	990	0	0	Wednesday, 19 March 2014
10	Preparation of Closing	Cl.											90	1080			Thursday, 21 March 2014
11	Preparation of Closing	Resp.											90	1170			Thursday, 21 March 2014
12	Closing Statement	Cl.	60									30	90	1260	0	0	Thursday, 21 March 2014
13	Closing Statement	Resp.	60									30	90	1350	0	0	Thursday, 21 March 2014
12	Closing Rebuttal	Cl.	15									5	20	1370	0	0	Thursday, 21 March 2014
13	Closing Rebuttal	Resp.	15									5	20	1390	0	0	Thursday, 21 March 2014
16	Procedure	Trib.										60	60	1450	0	0	
17	Totals		390	0	30	0	600	0	60	0	190	0	1450	1450	0	0	

	Est	Act	Left
16 Total Cl.	405	0	405
17 Total Resp.	645	0	645
18 Total Tribunal	190	0	190
19 Grand Total	1240	0	
20 Hours	20.67	0.00	
21 Days	3.44	0.00	

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