

**IN THE MATTER OF AN ARBITRATION UNDER CHAPTER ELEVEN OF THE
NORTH AMERICAN FREE TRADE AGREEMENT AND THE
UNCITRAL ARBITRATION RULES, 1976**

-between-

**TENNANT ENERGY, LLC
(the “Claimant”)**

-and-

**GOVERNMENT OF CANADA
(the “Respondent”, and together with the Claimant, the “Parties”)**

PROCEDURAL ORDER NO. 12

The Arbitral Tribunal

Mr. Cavinder Bull SC (Presiding Arbitrator)

Mr. R. Doak Bishop

Sir Daniel Bethlehem QC

Registry

Permanent Court of Arbitration

Tribunal Secretary

Ms. Christel Y. Tham

6 May 2021

I. RELEVANT PROCEDURAL HISTORY

1. On 7 August 2020, the Claimant submitted its Memorial on Jurisdiction, Merits and Quantum (the “**Memorial**”), along with Mr. John C. Pennie’s Witness Statement (the “**Pennie WS**”) and the Deloitte Valuation Report (the “**Deloitte Report**”).
2. On 21 September 2020, the Tribunal issued Procedural Order No. 7 (“**PO7**”), dismissing the Respondent’s request for an order of proper remedies, as well as its claim that the Claimant had in its Memorial inappropriately relied on confidential information included in unredacted videos of the hearing in the *Mesa Power v. Canada* arbitration (“**Mesa Power**”). The Claimant had submitted these unredacted videos as exhibits C-107, C-201, C-204, C-205, C-206, C-208, and C-224 through C-243 (the “**Mesa Power Videos**”). Notwithstanding its decision to allow the Claimant to refer to and rely on the *Mesa Power* Videos in its Memorial, however, the Tribunal also noted in paragraph 50 of PO7 that:

The Tribunal notes that the *Mesa Power* Videos have since been removed from the case registry’s website and they are no longer in the public domain. It may be that the Respondent will wish to protect the confidentiality of the information in the *Mesa Power* Videos, in accordance with the *Mesa Power* confidentiality order. If the Respondent so requests, the Tribunal would be prepared to order that any confidential information contained in the *Mesa Power* Videos be redacted from the publicly available versions of the Parties’ pleadings and any decision or award. In this regard, the Tribunal notes that the Confidentiality Order in this arbitration defines “Confidential Information” to include information “that is not publicly available and is designated by a Party as confidential on the grounds that it is...information subject to a confidentiality order issued by a court or tribunal in proceedings unrelated to the present proceedings”.

3. On 8 October 2020, after noting that the Claimant had not labelled six of its recent submissions, including its Memorial and the Pennie WS, as confidential at the time of filing in accordance with paragraph 15 of the Confidentiality Order dated 24 June 2019 (“**CO**”), the Respondent sought clarification from the Tribunal as to whether its proposed confidentiality designations to these six submissions under paragraph 16 of the CO would be due 21 or 42 days after they were first filed. These six submissions all contained references to the *Mesa Power* Videos.
4. By e-mail communication of the same date, the Claimant asserted, *inter alia*, that the Respondent must first submit a request to the Tribunal, pursuant to paragraph 50 of PO7, before it can propose any confidentiality designations to these submissions.
5. On 16 October 2020, the Tribunal held, *inter alia*, that it did not consider paragraph 50 of PO7 to mean that the Respondent must first submit a formal request before it can proceed to propose confidentiality designations to the Claimant’s six submissions. The Tribunal further confirmed that the Respondent’s proposed confidentiality designations to the Claimant’s six submissions would be due 21 days after the expiry of a period of 21 days after the Claimant filed those submissions, in accordance with the CO, and accordingly directed the Respondent to provide its proposed designations to the Memorial and Pennie WS by 30 October 2020, and its proposed designations to the remaining four submissions by 2 November 2020. The Tribunal further stated that:

In the event that the Claimant disagrees with the Respondent’s confidentiality designations regarding any information contained in the *Mesa Power* Videos which is subject to the confidentiality order issued by the *Mesa Power* tribunal, and the issue comes before the Tribunal for determination, the Tribunal will be prepared to order that any such confidential information be redacted from the publicly available versions of the Parties’ submissions, and any directions, orders or award, in accordance with paragraph 50 of PO7.

6. By e-mail communication to the Claimant dated 30 October 2020, the Respondent submitted its proposed confidentiality designations to the Memorial as well as, *inter alia*, (i) its confidentiality designations to exhibit C-108; (ii) its proposal that the *Mesa Power* Videos (*i.e.* exhibits C-107, C-201, C-204, C-205, C-206, C-208, and C-224 through C-243) be designated as confidential; and (iii) its proposal that the publicly available redacted *Mesa Power* hearing transcripts be used in lieu of the *Mesa Power* Videos as the public versions of those exhibits in the proceedings.
7. By e-mail communication to the Parties dated 11 November 2020, the PCA noted that neither Party had designated any restricted access or confidential information in a number of documents, including the Memorial, the Pennie WS, and the Deloitte Report, and informed the Parties that the PCA would publish those documents in full on its website by 17 November 2020, unless otherwise indicated by the Parties by 16 November 2020.
8. By e-mail communication to the PCA dated 13 November 2020, the Respondent confirmed that, with the exception of the Memorial and the Pennie WS, it had no designations of confidential or restricted access information to propose in the remaining documents, and that they can be published.
9. By e-mail communication to the PCA on the same date, the Claimant, with the exception of the Memorial, the Pennie WS, and the witness statement of Justin Giovanetti dated 2 September 2020, did not raise any objections to the publication of the documents flagged by the PCA.
10. On 17 November 2020, the PCA published a number of case documents in full on its website, including the Deloitte Report.
11. By e-mail communication to the Respondent dated 20 November 2020, the Claimant, *inter alia*, submitted its objections to the Respondent's confidentiality designations to exhibit C-108 and the *Mesa Power* Videos, and further objected to the Respondent's proposal to publish the redacted versions of the *Mesa Power* hearing transcripts instead of the *Mesa Power* Videos.
12. By e-mail communication to the Claimant dated 3 December 2020, the Respondent, *inter alia*, submitted its replies to the Claimant's objections to its confidentiality designations to exhibit C-108. While maintaining its confidentiality designations concerning the *Mesa Power* Videos, the Respondent also requested the Claimant to follow the procedure provided for in paragraphs 16 and 17 of the CO, including identifying the specific information in the *Mesa Power* Videos that it believes to be not confidential, such that, in the event that no agreement is reached between the Parties, they can proceed to seek the Tribunal's direction on the matter.
13. In response to the Respondent's e-mail communication on the same day following up on the issues raised in its 3 December 2020 e-mail communication, the Claimant stated that, in light of the personal circumstances faced by Mr. Appleton, the outstanding issues "would best await [his] return to the office."
14. By e-mail communication to the Claimant dated 18 January 2021, the Respondent, *inter alia*, reiterated its position concerning its confidentiality designations to exhibit C-108 and the *Mesa Power* Videos, and indicated that, in light of the personal circumstances faced by Mr. Appleton, it would delay seeking the Tribunal's assistance in these matters for an additional two weeks.
15. By e-mail communication to the Respondent dated 27 January 2021, the Claimant reiterated its preference to delay addressing the outstanding confidentiality issues until after Mr. Appleton's return to regular office activity.

16. By e-mail communication to the Claimant dated 28 January 2021, the Respondent, *inter alia*, indicated that it was prepared to delay, in good faith, its outreach to the Tribunal on these issues until after Mr. Appleton had returned to regular practice.
17. By e-mail communication to the Claimant dated 24 February 2021, the Respondent, *inter alia*, noted that it remains open to discussing the outstanding confidentiality issues if Mr. Appleton has returned to practice, but if not, that it was also prepared to delay any submission to the Tribunal until after his return.
18. By e-mail communication to the Respondent on the same day, the Claimant noted that Mr. Appleton had not returned to practice and, as such, it “would be best to continue to defer the procedural matters in these circumstances until Mr. Appleton can become fully engaged.”
19. On 1 March 2021, the Claimant submitted its Counter-Memorial on Jurisdiction.
20. On 26 March 2021, pursuant to paragraph 17 of the CO, the Respondent, *inter alia*, requested the Tribunal to make a final determination with respect to disputed confidentiality designations to exhibit C-108 and the *Mesa Power* Videos, as well as to direct that the publicly available redacted *Mesa Power* hearing transcripts stand as the public versions of the exhibits of the *Mesa Power* Videos in these proceedings (the “**Application**”).
21. On 5 April 2021, the Claimant submitted its response to the Respondent’s Application, *inter alia*, asking that the Tribunal dismiss the Respondent’s requests in their entirety (the “**Response**”).
22. On 6 April 2021, the Tribunal invited the Respondent to submit any reply it may have to the Claimant’s response by 13 April 2021 and also directed it to submit a copy of its proposed designations to exhibit C-108 by the same date. The Tribunal also invited the Claimant to submit any rejoinder it may have to the Respondent’s reply by 20 April 2021.
23. On 13 April 2021, the Respondent submitted its reply to the Claimant’s 5 April 2021 response (the “**Reply**”), along with a copy of its proposed designations to exhibit C-108.
24. On 20 April 2021, the Claimant submitted its rejoinder to the Respondent’s 13 April 2021 reply (the “**Rejoinder**”).

II. SUMMARY OF THE PARTIES’ ARGUMENTS

25. In its Application, the Respondent requests the Tribunal to (i) accept its proposed confidentiality designations to exhibit C-108; (ii) order that all information that was designated as confidential pursuant to the *Mesa Power* Confidentiality Order (the “*Mesa Power* CO”) be designated as confidential in this arbitration, in particular in the *Mesa Power* Videos submitted as exhibits C-107, C-201, C-204, C-205, C-206, C-208, and C-224 through C-243 in this arbitration; and (iii) order that the publicly available redacted *Mesa Power* hearing transcripts be used in lieu of the *Mesa Power* Videos as the public versions of those exhibits in the proceedings. The Claimant objects to the Respondent’s Application in its entirety.
26. The following section summarizes the Parties’ arguments concerning the above issues, in turn.

A. Confidentiality Designations to Exhibit C-108

1. The Respondent's Position

27. The Respondent has proposed confidentiality designations to exhibit C-108 which are consistent with the confidentiality designations made to the same document in *Mesa Power* under the *Mesa Power* CO. The Respondent explains that exhibit C-108, which was submitted with the Claimant's Memorial, is identical to exhibit C-374 in *Mesa Power*, which had been largely redacted and designated as confidential by Mesa Power in that arbitration. As such, in accordance with its ongoing obligations under the *Mesa Power* CO to ensure that information from those proceedings remains confidential regardless of who owns it,¹ the Respondent has proposed the same designations of confidential information in exhibit C-108.²
28. Concerning the Claimant's claim that it obtained exhibit C-108 from Leader Resources Services Corp. ("**Leader**") and not from *Mesa Power*, and that Leader asserted that there was no confidential information in the document, the Respondent maintains that it "does not absolve Canada of its obligations under the *Mesa Power* CO."³ This is because, the Respondent explains, the Claimant "has not provided the necessary written consent that Mesa Power itself waived the confidentiality of the information in exhibit C-108", as required by paragraph 9 of the *Mesa Power* CO.⁴ Moreover, the Claimant's counsel's oral representation at the January 2020 hearing that he had received permission from the late Mr. T. Boone Pickens of Mesa Power to share "non-confidential information" from the *Mesa Power* arbitration is insufficient to demonstrate that the Claimant had permission to disclose confidential information in that arbitration.⁵
29. The Respondent also rejects the Claimant's contention that, by failing to assert any confidentiality over the references to exhibit C-108 in the Deloitte Report, and by agreeing to publish the Deloitte Report on the PCA's website in its entirety, the Respondent has waived its right to make any confidentiality designations to exhibit C-108.⁶ In particular, the Respondent observes that the "information from C-108 that is found in the Deloitte Valuation Report is very limited, with the overwhelming majority of the information not found in the Valuation Report or anywhere else on record in the Tennant arbitration."⁷
30. The Respondent further refutes the Claimant's allegation that it is, in effect, requesting an exclusion order to prevent the Claimant's experts from relying on exhibit C-108, and maintains that the Claimant and its experts are free to rely on the document in its entirety, subject to the appropriate designations of confidentiality made in the public version thereof.⁸
31. Finally, contrary to the Claimant's assertion, the Respondent maintains that its proposed confidentiality designations to exhibit C-108, which were made on 30 October 2020, were timely. This is because, the Respondent argues, the Tribunal's instructions that the Respondent "provide the Claimant with its proposed designations by 30 October 2020 (for the Claimant's Memorial

¹ *Mesa Power v. Canada*, Confidentiality Order, ¶ 20 (RLA-093).

² Reply, p. 2.

³ Reply, p. 2.

⁴ Reply, p. 2, fn. 4.

⁵ Reply, p. 2.

⁶ Reply, p. 3.

⁷ Reply, p. 3, fn. 6; Attachment to the Respondent's E-mail Communication to the Claimant, dated 3 December 2020, Disputed Designations Schedule, No. 3.

⁸ Reply, p. 3.

and Mr. Pennie’s witness statement)”,⁹ also applied to proposed designations to exhibits referred to in the Memorial.¹⁰

2. The Claimant’s Position

32. The Claimant submits that the Respondent’s confidentiality designations to exhibit C-108 should be rejected in their entirety.
33. First, the Claimant argues that exhibit C-108 does not contain confidential information because the Claimant obtained the document from Leader, the party that commissioned the report, which itself did not assert any confidentiality over the document.¹¹ The Claimant thus maintains that the fact that exhibit C-108 is identical to exhibit C-374 in the *Mesa Power* arbitration is irrelevant, because the Claimant obtained the document not from Mesa Power but from a different source with “no confidentiality associated with it.”¹² In any event, the Claimant notes, “[a]s a result of the disclosure of Exhibit C-108 at this time, the *Mesa Power* Exhibit C-374 is no longer confidential”.¹³
34. For these reasons, the Claimant also rejects the Respondent’s claim that only written consent from Mesa Power to waive the confidentiality of the information in exhibit C-108 would absolve the Respondent of its obligations under the *Mesa Power* CO.¹⁴ In the Claimant’s view, Leader, as the party that commissioned the document, “had full rights to use or share the information [therein] as it wished”, and Mesa Power has no authority over the document.¹⁵ In any event, the Claimant notes, the Respondent’s argument “has no foundation in law or logic” because this Tribunal has made clear that the Claimant is not bound by the *Mesa Power* CO.¹⁶
35. Second, the Claimant argues that the Respondent has waived its right to assert confidentiality over exhibit C-108, because it failed to assert any confidentiality over the references to exhibit C-108 in the Deloitte Report, and agreed to publish the Deloitte Report on the PCA’s website in its entirety.¹⁷
36. Third, the Claimant likewise claims that the Respondent’s proposed confidentiality designations to exhibit C-108, which were filed on 30 October 2020, are untimely. In the Claimant’s view, the Respondent should have asserted confidentiality over exhibit C-108, and the references thereto in the Deloitte Report, before it consented to the latter being published in full on the PCA’s website.¹⁸ Further, contrary to the Respondent’s contention, the Claimant does not consider the Tribunal’s 16 October 2020 instructions to have applied to exhibit C-108.¹⁹

⁹ Letter from the Tribunal to the Parties, dated 16 October 2020, p. 2.

¹⁰ Reply, p. 3.

¹¹ Response, p. 3.

¹² Response, p. 4. *See also* Rejoinder, p. 3.

¹³ Response, p. 3.

¹⁴ Rejoinder, p. 3-4.

¹⁵ Rejoinder, pp. 3-4.

¹⁶ Rejoinder, p. 3.

¹⁷ Response, p. 6; Rejoinder, p. 4.

¹⁸ Response, pp. 5-7; Rejoinder, p. 4.

¹⁹ Response, p. 5.

B. Confidentiality Designations to the *Mesa Power* Videos

1. The Respondent's Position

37. The Respondent submits that, in accordance with paragraph 50 of PO7 and the CO, as well as the Respondent's own obligations under the *Mesa Power* CO, all information in the *Mesa Power* Videos that was designated as confidential pursuant to the *Mesa Power* CO should be designated as confidential in this arbitration, and redacted from the public versions of the exhibits.²⁰
38. According to the Respondent, these designations are consistent with the Tribunal's finding in PO7 that the inadvertent disclosure of the confidential information in the *Mesa Power* Videos did not result in any waiver of confidentiality on the Respondent's part.²¹ Moreover, the Respondent notes, the Claimant has accepted similar confidentiality designations that the Respondent has made to exhibits C-179, C-214, C-215, C-216 and C-218, which are screenshots of the *Mesa Power* Videos.²²
39. As to the manner in which the non-confidential portions of the *Mesa Power* Videos should be made public, the Respondent proposes that the "publicly available redacted *Mesa Power* hearing transcripts stand as the public version of the *Mesa Power* hearing videos in this arbitration."²³ In the Respondent's view, this is the most efficient and non-prejudicial way of proceeding given that (i) no accurately redacted version of the videos exists; (ii) reviewing the videos and comparing them to the public transcripts would require the Respondent "to spend hundreds of hours and significant personnel and financial resources";²⁴ and (iii) "the public versions of the *Mesa Power* hearing transcripts provide the exact same audible information that would be in a public version of the *Mesa Power* hearing videos."²⁵

2. The Claimant's Position

40. The Claimant objects both to the Respondent's confidentiality designations to the *Mesa Power* Videos, as well as the Respondent's proposal of having the publicly available redacted *Mesa Power* hearing transcripts stand as the public version of the *Mesa Power* Videos in this arbitration.
41. Concerning the Respondent's proposed confidentiality designations, the Claimant contends that they do not accurately reflect the confidential information in the *Mesa Power* Videos, as defined in the CO. Rather, the Claimant claims that the Respondent's designations are overbroad and include information that was confidential at the time of the *Mesa Power* arbitration, but has since "been made public through release in submissions that the parties agreed to make public."²⁶ Accordingly, since the Respondent is the Party seeking to these confidentiality designations, the Claimant submits that the burden falls on the Respondent to identify those parts of the videos that are currently confidential. The Respondent, however, has refused to meet this burden.²⁷
42. In addition, the Claimant rejects the Respondent's claim that all information in the *Mesa Power* Videos that was designated as confidential pursuant to the *Mesa Power* CO should be designated

²⁰ Reply, pp. 3-4.

²¹ Reply, p. 3.

²² Reply, p. 4.

²³ Application, p. 2; Reply, p. 4.

²⁴ Reply, p. 4.

²⁵ Application, p. 2.

²⁶ Response, p. 11.

²⁷ Response, p. 12; Rejoinder, p. 6.

as confidential in this arbitration, arguing that the Tribunal has determined that the Claimant is not bound by the *Mesa Power CO*.²⁸

43. Concerning the Respondent's proposal to have the redacted *Mesa Power* hearing transcripts stand as the public version of the *Mesa Power* Videos, the Claimant argues that it is an attempt by the Respondent "to suppress the publication of the video evidence in its entirety, making all the video evidence unavailable to the public."²⁹ Contrary to the Respondent's contention, the Claimant maintains that the redacted *Mesa Power* hearing transcripts are not perfect substitutes for the redacted *Mesa Power* Videos. This is because, in the Claimant's view, the *Mesa Power* Videos contain essential information not on the hearing transcripts, including "references to Powerpoint slides with evidence".³⁰ Moreover, the Claimant notes that the publicly available redacted *Mesa Power* hearing transcripts, as prepared in the *Mesa Power* arbitration, also currently do not reflect parts of the record that have subsequently been made public.³¹
44. The Claimant similarly dismisses the Respondent's claim that redacting the *Mesa Power* Videos would be too burdensome, maintaining that as a G8 member economy, the Respondent has the resources and capabilities to redact the videos.³² The Claimant also notes that the only reason that it agreed to the Respondent's confidentiality designations to the screenshots of the *Mesa Power* Videos is because they contain information that remains confidential.³³

III. THE TRIBUNAL'S ORDER

A. Confidentiality Designations to Exhibit C-108

45. Having carefully considered the Parties' submissions on this issue, the Tribunal is not persuaded that exhibit C-108 contains confidential information.
46. In this regard, the Tribunal notes that the Claimant has asserted that it did not obtain exhibit C-108 from Mesa Power, but from Leader, the party that commissioned the report and who itself did not assert any confidentiality over the document.³⁴ This assertion has not been contradicted, and the Tribunal has no basis to doubt it. In light of the Claimant's representations, and the lack of contradiction, the Tribunal proceeds on the basis that the necessary consent has been obtained from Leader waiving the confidentiality of the information in exhibit C-108.
47. The Tribunal recognises that exhibit C-108 is identical to exhibit C-374 in the *Mesa Power* arbitration, and that exhibit C-374 had been largely redacted and designated as confidential by Mesa Power in that arbitration. However, it is obvious from exhibit C-108 that it is a report produced for Leader, and, outside the *Mesa Power* proceedings, it would be for Leader (*not* Mesa Power) to assert confidentiality over the document. Since Leader is not asserting any confidentiality over exhibit C-108, there is no need to redact and designate the said exhibit as confidential in this arbitration.
48. For completeness, the Tribunal rejects the Claimant's argument that the Respondent has waived its right to assert confidentiality over exhibit C-108 because it purportedly failed to assert any

²⁸ Response, p. 5.

²⁹ Response, p. 1.

³⁰ Response, p. 11; Rejoinder, p. 6.

³¹ Response, p. 11; Rejoinder, p. 6.

³² Rejoinder, p. 6.

³³ Rejoinder, p. 6.

³⁴ Response, p. 3.

confidentiality over the references to exhibit C-108 in the Deloitte Report, and agreed to publish the Deloitte Report on the PCA's website in its entirety.³⁵ The Tribunal agrees with the Respondent that "information from C-108 that is found in the Deloitte Valuation Report is very limited, with the overwhelming majority of the information not found in the Valuation Report or anywhere else on record in the Tennant arbitration."³⁶

49. The Tribunal adds that, having regard to the circumstances set out above and at least in this Tribunal's estimation, this Tribunal's disclosure directions cannot properly be said to engage the Respondent's responsibility under the *Mesa Power* CO. Exhibit C-108 is not an exhibit of the *Mesa Power* arbitration and the Respondent has, in any event, taken all available steps to apprise this Tribunal of its *Mesa Power* confidentiality obligations.

B. Confidentiality Designations to the *Mesa Power* Videos

50. For the reasons set out below, the Tribunal has decided to reject the Respondent's application for the publicly available redacted *Mesa Power* hearing transcripts to stand as the public versions of the exhibits of the *Mesa Power* Videos in these proceedings.
51. In the Tribunal's view, the fact that the Respondent would be required "to spend hundreds of hours and significant personnel and financial resources"³⁷ in reviewing the *Mesa Power* Videos and comparing them to the public transcripts is not good enough a reason for the Respondent to avoid its obligations under the CO to propose and identify parts of the *Mesa Power* Videos that it asserts are confidential, and to make public the non-confidential version of the *Mesa Power* Videos. Further, as highlighted by the Claimant,³⁸ and which the Tribunal agrees with, the *Mesa Power* hearing transcripts would not be adequate substitutes for the *Mesa Power* Videos as the *Mesa Power* Videos contain information not on the hearing transcripts, including "references to Powerpoint slides with evidence".
52. Insofar as the Claimant contends that the confidentiality designations in the publicly available redacted *Mesa Power* hearing transcripts are overbroad and include information that is no longer confidential, the Tribunal understands that the Claimant is not asking the Tribunal to decide now if that indeed is the case. Instead, it is the Claimant's position that, as the "moving party seeking to prevent the public from assessing these videos", the Respondent "must identify those parts of the videos that are currently confidential".³⁹ In any event, until the Parties can identify the specific confidential information designations in the *Mesa Power* Videos over which there is a dispute, and articulate their respective positions in relation thereto, the Tribunal cannot meaningfully make any decision in this respect.
53. In light of the foregoing, the Tribunal hereby directs that the Respondent provides the Claimant with its proposed confidential information designations to the *Mesa Power* Videos within 21 days from the date of this procedural order, and for the Parties to resolve the issue of the confidentiality designations in accordance with the procedure set out in the CO. Should the Parties fail to reach agreement concerning any specific confidential information designations to the *Mesa Power* Videos, they may then submit it to the Tribunal for resolution in accordance with paragraph 17 of the CO. The Tribunal further notes that, given the Respondent's concern that the identification of confidentiality information in, and subsequent redaction of, the *Mesa Power* Videos may be

³⁵ Response, p. 6; Rejoinder, p. 4.

³⁶ Reply, p. 3, fn. 6; Attachment to the Respondent's E-mail Communication to the Claimant, dated 3 December 2020, Disputed Designations Schedule, No. 3.

³⁷ Reply, p. 4.

³⁸ Response, p. 11; Rejoinder, p. 6.

³⁹ Response, p. 12.

burdensome, the Tribunal is prepared to grant a reasonable extension of the timelines set out above and in the CO if so requested by the Respondent.

Dated: 6 May 2021

Place of Arbitration: Washington, D.C.



Mr. Cavinder Bull SC
(Presiding Arbitrator)

On behalf of the Tribunal