

In the matter of an arbitration under the UNCITRAL Arbitration Rules

between

OOO MANOLIUM-PROCESSING

Claimant

v.

THE REPUBLIC OF BELARUS

Respondent

PROCEDURAL ORDER NO. 1

ARBITRAL TRIBUNAL

Juan Fernández-Armesto (Chairman)
Stanimir Alexandrov
Brigitte Stern

ADMINISTRATIVE SECRETARY

Krystle M. Baptista Serna

WHEREAS

1. This arbitration arises between OOO MANOLIUM-PROCESSING [“**Manolium**” or “**Claimant**”] and the REPUBLIC OF BELARUS [“**Belarus**” or “**Respondent**”]. Claimant and Respondent shall be jointly referred to as the **Parties**.
2. On February 21, 2018 the Parties jointly submitted a timetable with their respective positions on the procedural calendar.
3. By communication A 4 the Arbitral Tribunal convened the case management conference call for April 10, 2018. The Parties and the Tribunal held the case management conference call to discuss the Terms of Appointment and the procedural calendar.
4. On March 14, 2018 the Tribunal submitted a draft Procedural Order No. 1 to the Parties, requesting their comments.
5. On April 4, 2018 the Parties submitted their comments to the draft Procedural Order No. 1.
6. On May 8, 2018, the Tribunal submitted a new draft Procedural Order No. 1 to the Parties, requesting their comments.
7. On May 15, 2018, Respondent submitted its final comments to the draft Procedural Order No. 1. Claimant did not submit any comments.
8. The following Procedural Order reflects the Tribunal’s decisions after consultation with the Parties.

PRODEDURAL ORDER NO. 1

I. PROCEDURAL TIMETABLE

9. The arbitration shall proceed in accordance with the Procedural Timetable attached hereto as Annex I, except if the Tribunal, at the reasonable request of any Party or on its own initiative, decides that, for good cause, this Procedural Timetable has to be amended.
10. Amendments to the Procedural Timetable will be made by reissuing Annex I.

1. FIRST WRITTEN SUBMISSIONS

11. On May 10, 2018 Claimant shall file the Statement of Claim. The Statement of Claim shall set forth the facts, the legal arguments and the relief sought. The Statement of Claim shall also:
 - (i) include as attachments all documents in possession, custody or control of Claimant, on which the Claimant wishes to rely;
 - (ii) identify the fact witnesses Claimant wishes to present and attach a signed witness statement containing the name, address, relation to the Parties and the full text of the testimony;
 - (iii) identify expert witnesses, on whose opinion Claimant wishes to rely and attach a signed opinion containing the name, address, statement of independence and the full text of the opinion of the expert;
 - (iv) attach a chronology of the events underlying the dispute, with reference to supporting evidence.
12. If Respondent decides not to present a Request for Bifurcation, Procedural Timetable A of Annex I shall apply, and Respondent shall present its Statement of Defense on July 25, 2018. The Statement of Defense shall set forth the facts, the legal arguments, any jurisdictional objection (if applicable) and the relief sought. The marshalling of evidence shall follow *mutatis mutandis* the rules established in para. 11 *supra*. To the extent that Respondent's chronology of events diverges from Claimant's, Respondent is asked to amend Claimant's chronology as it sees fit.
2. **BIFURCATION**
13. In the event Respondent decides to file a Request for Bifurcation Procedural Timetable B of Annex I shall apply.

14. On June 11, 2018, Respondent shall file its Request for Bifurcation setting out the nature of the jurisdictional objections that it intends to raise and the reasons for the request for bifurcation.
15. On June 25, 2018, Claimant shall present the response to the Request for Bifurcation.
16. On July 25, 2018, the Tribunal shall adopt a decision on the Request for Bifurcation [**“Decision on Bifurcation”**]. The Tribunal may provide to the Parties the reasons underlying its Decision on Bifurcation on a later date.

2.1 IF THE TRIBUNAL DOES NOT BIFURCATE THE PROCEEDINGS

17. Should the Tribunal decide not to bifurcate the proceedings, Respondent shall present its Statement of Defense on October 25, 2018.
18. The proceeding shall continue as set forth in Procedural Timetable B.1 of Annex I.

2.2 IF THE TRIBUNAL BIFURCATES THE PROCEEDINGS

Bifurcation of Jurisdiction and Merits

19. Should the Tribunal decide to bifurcate the proceedings in respect of Jurisdiction, the Merits (i.e. Liability and Quantum) shall remain suspended until the Tribunal issues a Decision on Jurisdiction. In that case Procedural Timetable B.2 of Annex I shall apply:
20. On September 25, 2018, Respondent shall file its Memorial on Jurisdiction. The marshalling of evidence shall follow *mutatis mutandis* the rules established in para. 11 *supra*.
21. On October 25, 2018, Claimant shall file an Answer on Jurisdiction responding to Respondent’s Memorial on Jurisdiction. The marshalling of evidence shall follow *mutatis mutandis* the rules established in para. 11 *supra*.
22. The Parties do not consider necessary to hold a Hearing on Jurisdiction. The Tribunal reserves the right to ask that the Parties hold a Hearing on Jurisdiction.
23. If there is no Hearing on Jurisdiction, the Tribunal shall make its best efforts to adopt a Decision on Jurisdiction by January 25, 2019.

Trifurcation

24. Should the Tribunal decide to trifurcate the proceedings in Jurisdiction, Liability and Quantum, the proceedings on Liability and Quantum shall remain suspended until the Tribunal issues a Decision on Jurisdiction, and afterwards on Liability. In that case, Procedural Timetable B.2 of Annex I shall apply.
25. Once the Tribunal has issued a Decision on Liability it will convene the Parties to a conference call in order to discuss the calendar for the last phase of the proceedings.

Bifurcation of Liability and Quantum

26. Should the Tribunal decide to bifurcate the proceedings between Liability and Quantum, the proceedings on Quantum shall remain suspended until the Tribunal issues a Decision on Liability. In that case, Procedural Timetable B.3 of Annex I shall apply.
27. Once the Tribunal has issued a Decision on Liability it will convene the Parties to a conference call in order to discuss the calendar for the last phase of the proceedings.

3. SECOND WRITTEN SUBMISSIONS

28. Claimant shall file a Statement of Reply on the date established in the appropriate Procedural Timetable of Annex I.
29. The scope of the Statement of Reply shall be limited to replying to the argumentation set forth by the Respondent in its Statement of Defense. Absent leave from the Tribunal for good cause, no new argument shall be presented, and no new evidence shall be attached to the Statement of Reply, except if required to rebut arguments and evidence submitted by the Respondent in its Statement of Defense. The marshalling of evidence shall follow *mutatis mutandis* the rules established in para. 11 *supra*.
30. Respondent shall file a Statement of Rejoinder on the date established in the appropriate Procedural Timetable of Annex I.
31. The scope of the Statement of Rejoinder shall be limited to replying to the argumentation set forth by the Claimant in its Statement of Reply. Absent leave from the Tribunal for good cause shown, no new argument shall be presented, and no new evidence shall be attached to the Statement of Rejoinder, except if required to rebut arguments and evidence submitted by Claimant in the Statement of Reply. The marshalling of evidence shall follow *mutatis mutandis* the rules established in para. 11 *supra*.

4. ORGANIZATION OF THE HEARINGS

32. The Tribunal shall issue a Procedural Order establishing the specific details of the evidentiary hearing [“**Hearing**”] to be held in this case, elaborating on the basic principles already set out in this Procedural Order No. 1.
33. The rules set forth in this section shall apply by analogy to party experts.
34. Any person who has produced a witness statement, expert opinion or report may be called to the Hearings for examination or cross-examination at the dates established in Annex I.
35. Each witness statement shall state the witness's name, date of birth, present address and involvement in the case. In the witness statement and prior to giving oral evidence at the hearing, each witness shall affirm that his or her written and oral statements are true, correct, and materially complete.

36. No witness shall be allowed to testify unless a written witness statement has been provided from that witness together with the written submission relying on such witness statement.
37. It shall not be improper for Counsel to meet witnesses and potential witnesses to establish the facts, prepare the witness statements and the examinations.
38. The rules set forth in this section shall apply by analogy to party experts.
39. Each Party shall advance the costs of appearance of its own witnesses and experts. The Arbitral Tribunal will decide upon the appropriate allocation of such costs in its final award.
40. The Arbitral Tribunal may consider the witness statement of a witness or an expert report of a witness or expert who provides a valid reason for failing to appear when summoned to a hearing, having regard to all the surrounding circumstances, and allocating appropriate weight to the evidence.
41. At the dates established in Annex I, each Party shall communicate to the other Party and the Tribunal the names of the witnesses or expert it intends to examine.
42. The Tribunal may call for examination any witness or expert, even if not called by the Parties. The Tribunal may also exclude any witness or expert from examination, if it finds that the witness' or expert's appearance is not necessary for the adjudication of the case.
43. Each Party shall be responsible for summoning those of its own witnesses or experts who have been called to the Hearings, except when the other Party has waived cross-examination of a witness or an expert and the Tribunal does not insist on his or her appearance.
44. If a witness or expert testifies in a language other than English, the Party that summoned her or him to the Hearings shall organize simultaneous interpretation. Each Party may secure itself the appropriate services.
45. The venue for the Hearings shall be the Peace Palace, The Hague, Netherlands¹. The Parties shall liaise with the PCA to discuss the necessary organizational details for the Hearings and promptly inform the Tribunal. The Tribunal and the Administrative Secretary remain at the Parties' disposal should they require any assistance with the organization of the Hearings.
46. The costs of the Hearings will be paid directly by the Parties, or their counsel on the Parties' behalf, in equal shares, without prejudice to the Tribunal's decision as to which Party will ultimately bear these costs.
47. After the Hearings, the Tribunal may request an additional advance on costs, if the remaining amount proves to be insufficient to cover the agreed fees.

¹ Joint communication of the Parties submitted on February 21, 2018, para. 3(j).

5. POST HEARING SUBMISSIONS

48. The Tribunal will determine at the end of the Hearings if Post-Hearing Submissions are necessary.
49. Statements of costs shall be filed simultaneously on a date to be agreed by the Tribunal with the Parties at the end of the Hearings.

6. ADDITIONAL SUBMISSIONS

50. No further substantive submissions regarding the merits of the case shall be admissible, except
- for those defined in the preceding section, or
 - for those authorized *ex ante* by the Tribunal, upon motivated request from one Party and after having heard the counterparty.
51. The same rule shall also apply to the marshalling of evidence.

II. CONDUCT OF THE PROCEEDINGS

1. TIME EXTENSIONS

52. The Tribunal understands that time periods fixed in Annex I are ample and sufficient for the preparation of the submissions. Consequently, the Tribunal will not accept motions for time extensions, save in reasonable and substantiated circumstances.
53. Time extensions which imply a cancellation of the Hearings will only be granted in exceptional circumstances.

2. COMMUNICATIONS AND DOCUMENTS

54. All communications shall be sent to all members of the Tribunal, the Secretary, the PCA and the Parties by e-mail.
55. The Parties' main submissions will be advanced by e-mail on their due date. Printed versions shall be sent to the addresses set out in the Terms of Appointment within two days by courier after the Parties file their submissions by e-mail. Witness Statements and Expert Reports shall be attached printed out on paper. All other documents attached to the Parties' submissions shall be attached in electronic format only (e.g. USB or DVD).

56. The Tribunal would appreciate it if the printed documents (i.e. Written Submissions, Witness Statements and Expert Reports) are submitted in DIN A 4 format, printed on both sides².
57. Simultaneous communications will be advanced by email to the Tribunal and the Secretary, who will forward them in due course to the counterparty.
58. Receipt of any email communication shall be acknowledged by the recipient.
59. Documents submitted as a copy of the original shall have the same evidentiary value as the original, unless any Party objects to their authenticity. In such case, the Tribunal shall have discretion as to the admissibility and evidentiary weight of said documents.
60. A filing shall be deemed timely if sent by a Party by 24:00 CET on the relevant date.
61. The official date of receipt of the Parties' submissions or communications shall be the day on which the electronic version is sent to the Arbitral Tribunal, the PCA and the Administrative Secretary.
62. The documents filed by the Parties in these proceedings shall be submitted in the following form:
 - The number of each submission submitted by the Claimant shall commence with the letters "CS" followed by the applicable consecutive number;
 - The number of each submission submitted by the Respondent shall commence with the letters "RS" followed by the applicable consecutive number;
 - Each Party shall keep a single set of its factual exhibits, legal authorities, witness statements and expert reports which shall be numbered consecutively throughout these proceedings;
 - The number of each factual exhibit submitted by the Claimant shall commence with the letters "C" and the number of each legal authority with the letters "CL", followed by the applicable consecutive number;
 - The number of each factual exhibit submitted by the Respondent shall commence with the letter "R" and the number of each legal authority with the letters "RL", followed by the applicable consecutive number;
 - The number of each witness statement submitted by the Claimant shall commence with the letters "CWS" followed by the applicable consecutive number;

² Except for Prof. Stern who requests to be sent only the Written Submissions in paper (no need for printed versions of the witness statements and expert reports) and printed only on one side. Mr. Alexandrov does not want to receive any hard copies of any submissions or documents, electronic copies will suffice.

- The number of each witness statement submitted by the Respondent shall commence with the letters "RWS" followed by the applicable consecutive number;
- The number of each expert report submitted by the Claimant shall commence with the letters "CER" followed by the applicable consecutive number;
- The number of each expert report submitted by the Respondent shall commence with the letters "RER" followed by the applicable consecutive number;
- Factual exhibits, legal authorities, witness statements, expert reports and exhibits to expert reports shall be listed in an appropriate order with a separate tab for each document together with an index, which should be updated for each new submission of evidence.

63. All exhibits submitted by the Parties in electronic format shall be filed in "searchable" files.
64. Any Party shall immediately notify in writing to the other Party, the members of the Tribunal, the Secretary and the PCA, of any change in its address. Failing such notification and confirmation of receipt by the President of the Arbitral Tribunal, all communications sent to the addresses established in the Terms of Reference shall be deemed valid.

3. LANGUAGE OF SUBMISSIONS

65. The language of the arbitration is English.
66. Any document not drafted in English shall be submitted with a translation into English. The translation should be done by, and the cost initially borne by, the Party who relies on the document, without prejudice to the Tribunal's decision as to which Party will ultimately bear that cost.
67. In order to reduce costs, only the relevant passages of lengthy documents should be translated.
68. Any questions as to the scope of the translation shall be settled by the Parties. If no agreement can be reached, the Tribunal will make a decision.
69. In case of conflict between the original and translated document, the original's language shall prevail.
70. Translations of any document submitted by the Parties are to be filed in the same tab as the original text so that constitutes a single electronic document.

4. OTHER PROCEDURAL ISSUES

71. All other procedural issues shall be governed by the 2013 UNCITRAL Arbitration Rules.

5. POWERS OF THE ARBITRAL TRIBUNAL AND OF THE CHAIRMAN

72. The Tribunal or the Chairman by himself shall have the power to extend for good cause any time period set forth in Annex I, upon reasoned request by any Party or *sua sponte* in reasonable circumstances.
73. Any Procedural Order of the Arbitral Tribunal may, at the request of a Party or on the Arbitral Tribunal's own initiative, be varied if the circumstances so require for the proper conduct of the arbitration proceeding.
74. The President shall be entitled to sign Procedural Orders and other documents on behalf of the Arbitral Tribunal, after consultation with the co-arbitrators.



Juan Fernández-Armesto
Chairman

Date: May 17, 2018

ANNEX I

OOO Manolium-Processing v. The Republic of Belarus

TIMETABLE A

The following timetable shall apply in the event that objections to jurisdiction (if any) are made with the counter-memorial, and there is no request for bifurcation.

Date / [Period of Time]	Party / Tribunal	Description
Thursday, May 10, 2018 [+1 month from case management conference call]	Claimant	Statement of Claim
Wednesday, July 25, 2018 [+2,5 months from delivery of Statement of Claim]	Respondent	Statement of Defense [and Memorial on Jurisdictional Objections]
Tuesday, September 25, 2018 [+2 month from Statement of Defense]	Claimant	Statement of reply [and Counter-memorial on Jurisdictional Objections]
Monday, November 26, 2018 [+2 months from Statement of Reply]	Respondent	Rejoinder on the Merits [and Reply on Jurisdictional Objections]
Thursday, December 6, 2018 [+10 days from Statement of Reply]	Claimant & Respondent	Witness notification
Monday, December 17, 2018 [+2 weeks from Statement of Reply]	Parties	Parties to agree on the index of hearing bundles
Thursday, December 20, 2018 [+2,5 weeks from Statement of Reply]	Parties and President of the Tribunal (unless full Tribunal is requested by either Party)	Pre-Hearing Organizational Meeting
Monday, January 7-11, 2019 [+ 6 weeks from Rejoinder on the merits]	All	Hearing

TIMETABLE B.1

The following timetable shall apply in the event that objections to jurisdiction are raised in response to the Statement of Claim, and there is a request for bifurcation which is DISMISSED.

Date / [Period of Time]	Party / Tribunal	Description
Thursday, May 10, 2018 [+1 month from case management conference call]	Claimant	Statement of Claim
Monday, June 11, 2018 [+ 1 month from Statement of Claim]	Respondent	Summary on Preliminary Objections and Request for Bifurcation
Monday, June 25, 2018 [+2 weeks from Summary on Preliminary Objections and Request for Bifurcation]	Claimant	Observations on Request for Bifurcation
Thursday, July 25, 2018 [+1 month from Observations on Request for Bifurcation]	Tribunal	Decision refusing bifurcation or joinder of preliminary objections to the merits
Thursday, October 25, 2018 [+3 months from decision refusing bifurcation]	Respondent	Statement of Defense and Memorial on Jurisdictional Objections
Tuesday, January 8, 2019 [+2,5 months from Statement of Defense]	Claimant	Statement of Reply [and Counter-memorial on Jurisdictional Objections]
Friday, March 22, 2019 [+2,5 months from Statement of Reply]	Respondent	Rejoinder on the Merits [and Reply on Jurisdictional Objections]
Wednesday, May 22, 2019 [+2 months before the Hearing]	Claimant & Respondent	Witness notification
Monday, June 24, 2019 [+5 weeks before the Hearing]	Parties	Parties to agree on the index of hearing bundles
Monday, July 1, 2019 [+4 weeks before the Hearing]	Parties and President of the Tribunal (unless full Tribunal is requested by either Party)	Pre-Hearing Organizational Meeting

Date / [Period of Time]	Party / Tribunal	Description
Monday, July 29 – Aug.2, 2019 [+4 months from Rejoinder on the Merits]	All	Hearing

TIMETABLE B.2

The following timetable shall apply in the event that objections to jurisdiction are raised in response to the Statement of Claim, and there is a request for bifurcation for jurisdiction, liability and quantum which is GRANTED.

Date / [Period of Time]	Party / Tribunal	Description
Thursday, May 10, 2018 [+1 month from case management conference]	Claimant	Statement of Claim
Monday, June 11, 2018 [+ 1 month from Statement of Claim]	Respondent	Summary on Preliminary Objections and Request for Bifurcation
Monday, June 25, 2018 [+2 weeks from Summary on Preliminary Objections and Request for Bifurcation]	Claimant	Observations on Request for Bifurcation
Thursday, July 25, 2018 [+1 month from Observations on Request for Bifurcation]	Tribunal	Decision granting bifurcation or joinder of preliminary objections to the merits
Tuesday, September 25, 2018 [+2 months from decision to bifurcate]	Respondent	Memorial on Jurisdictional Objections
Thursday, October 25, 2018 [+1 month from Memorial on Jurisdictional Objections]	Claimant	Counter-Memorial on Jurisdictional Objections
Friday, January 25, 2019 [+3 months from Memorial on Jurisdictional Objections]	Tribunal	Decision on Jurisdiction
Tuesday, April 9, 2019 [+2,5 months from Decision on Jurisdiction]	Respondent	Statement of Defense
Monday, June 10, 2019 [+2 months from Statement of Defense]	Claimant	Statement of Reply
Monday, August 12, 2019 [+2 months from Statement of Reply]	Respondent	Rejoinder on the Merits

Date / [Period of Time]	Party / Tribunal	Description
Thursday, September 12, 2018 [+1 month from Rejoinder]	Claimant & Respondent	Witness notification
Monday, September 23, 2019 [+4 weeks before Hearing]	All	Pre-Hearing Organizational Meeting
Monday, October 21-25, 2019 [+2 months from Rejoinder]	All	Hearing on the Merits
TDB	Claimant & Respondent	Post-Hearing submissions
TBD	Claimant & Respondent	Submissions on costs
TBD	Claimant & Respondent	Comments on opposing party's submission on costs, if any.
TBD	Tribunal	Award on the Merits.
TBD	All	Quantum phase

TIMETABLE B.3

The following timetable shall apply if a request for bifurcation of Merits and Quantum is made in response to the Statement of Claim, and it is GRANTED.

Date / [Period of Time]	Party / Tribunal	Description
Thursday, May 10, 2018 [+1 month from case management conference call]	Claimant	Statement of Claim
Monday, June 11, 2018 [+ 1 month from Statement of Claim]	Respondent	Summary on Preliminary Objections and Request for Bifurcation
Monday, June 25, 2018 [+2 weeks from Summary on Preliminary Objections and Request for Bifurcation]	Claimant	Observations on Request for Bifurcation
Thursday, July 25, 2018 [+1 month from Observations on Request for Bifurcation]	Tribunal	Decision granting bifurcation of merits and quantum
Tuesday, October 9, 2018 [+2.5 months from decision granting bifurcation]	Respondent	Statement of Defense [and Memorial on Jurisdictional Objections]
Monday, December 10, 2018 [+2 months from Statement of Defense]	Claimant	Statement of reply [and Counter-Memorial on Jurisdictional Objections]
Monday, February 11, 2019 [+2 months from Statement of Reply]	Respondent	Rejoinder on the Merits [and Reply on Jurisdictional Objections]
Thursday, April 11, 2019 [+2 months from Rejoinder on the Merits and Reply on Jurisdictional Objections]	Claimant & Respondent	Witness notification
Monday, July 1, 2019 [+3 weeks before the Hearing]	All	Pre-Hearing Organizational Meeting
Monday, July 29 – Aug. 2, 2019. [+5 months from Rejoinder]	All	Hearing on the Merits
TBD [+1 month from Hearing]	Claimant & Respondent	Post-Hearing submissions

Date / [Period of Time]	Party / Tribunal	Description
TBD	Claimant & Respondent	Submissions on costs
TBD	Claimant & Respondent	Comments on opposing party's submission on costs, if any.
TBD	Tribunal	Award on Liability
TBD	All	Quantum phase