

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT  
DISPUTES**

**TECO Guatemala Holdings, LLC**  
(Claimant)

**v.**

**Republic of Guatemala**  
(Applicant)

**(ICSID Case No. ARB/10/23)**  
**Third Annulment Proceeding**

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**PROCEDURAL ORDER NO. 3**

***Members of the Committee***

Ms. Deva Villanúa, President of the *ad hoc* Committee  
Prof. Lawrence Boo, Member of the *ad hoc* Committee  
Prof. Doug Jones AO, Member of the *ad hoc* Committee

***Secretary of the ad hoc Committee***

Ms. Mercedes Cordido-Freytes de Kurowski

***Assistant to the ad hoc Committee***

Mr. Felipe Aragón Barrero

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December 15, 2021

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**I. PROCEDURAL BACKGROUND**

1. On February 12, 2021, the Republic of Guatemala [**“Applicant”** or **“Guatemala”**] filed with the International Centre for Settlement of Investment Disputes [**“ICSID”**] an Application for Annulment of the **Resubmission Award** rendered on May 13, 2020 and the appended Supplementary Decision dated October 16, 2020, in the **Resubmission Proceedings** in *TECO Guatemala Holdings, LLC v. Republic of Guatemala* (ICSID Case No. ARB/10/23), [the **“Annulment Application”**]. The Annulment Application was filed pursuant to Article 52 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States [the **“ICSID Convention”**] and Rule 50 of the ICSID Rules of Procedure for Arbitration Proceedings [the **“Arbitration Rules”**]. The Claimant in the Resubmission Proceedings is TECO Guatemala Holdings, LLC [**“Claimant”** or **“TECO”**]. The Applicant and Claimant will be jointly referred to as the **Parties**.
2. On February 22, 2021, the Secretary-General of ICSID registered the Annulment Application, and notified the Parties of the provisional stay of enforcement of the Award.
3. On March 31, 2021, the Secretary-General of ICSID notified the Parties of the constitution of the *ad hoc* Committee [the **“Committee”**] in accordance with Article 52(3) of the ICSID Convention.
4. On May 17, 2021, the Committee issued Procedural Order No. 1 [**“PO No. 1”**], following consultation with the Parties.
5. On September 1, 2021, the Committee issued Procedural Order No. 2 [**“PO No. 2”**] granting Guatemala’s request to submit new evidence with its Memorial.
6. On December 2, 2021, TECO submitted a request asking the Committee to admit new evidence into the record [the **“Request”**] for the purpose of submitting it with its Counter-Memorial on Annulment, due on December 8, 2021.
7. On that same date, Guatemala requested the Committee to order TECO to produce a description of the new evidence it sought to introduce.
8. On December 3, 2021, TECO supplemented its Request providing a list with a detailed description of the new evidence.
9. On December 6, 2021, Guatemala filed a response opposing the Request [the **“Answer”**].
10. On December 8, 2021, the Committee issued a Summary Decision on TECO’s Request. The reasons motivating the Summary Decision are provided in this Procedural Order No. 3.

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**II. THE PARTIES' POSITIONS**

**1. TECO'S REQUEST**

11. Claimant seeks to introduce a set of 65 documents [the “**New Documents**”]<sup>1</sup> to rebut the evidence and allegations that Guatemala presented with its Memorial on Annulment.
12. TECO divides the New Documents into seven categories of issues that it wishes to address in its Counter-Memorial. The majority of the New Documents would serve to rebut Guatemala’s arguments that Dr. Stanimir Alexandrov lacked independence and impartiality and that this would warrant the annulment of the Resubmission Award<sup>2</sup>:
  - **Category 1:** documents which would show that the evidence on which Guatemala relies to question Dr. Alexandrov’s independence and impartiality was publicly available long before Guatemala filed its Annulment Application. These are 32 international arbitration press articles and hearing transcripts, Costa Rica’s pleadings and the expert report of Mr. Brent Kaczmarek in the case *Aaron C. Berkowitz & Ors. (formerly Spence Int’l Investments & Others) v. Republic of Costa Rica*, ICSID Case No. UNCT/13/2.
  - **Category 2:** documents which would serve to rebut Guatemala’s allegations concerning the relationship between Dr. Alexandrov and Mr. Kaczmarek. The evidence consists of three publicly available documents from investment arbitration cases and two resolutions of the Ministry of Foreign Trade of Costa Rica that serve to prove that the arbitrator and the expert were engaged by opposing parties and that Mr. Kaczmarek was also directly engaged by the disputing party in some other cases (as opposed to engaged by the counsel representing the disputing party).
  - **Category 3:** documents with information on counsel and expert appointments in investment arbitration cases, namely, three publicly available studies related to investment arbitration and a recent biography of Mr. Kaczmarek, also publicly available.
  - **Category 4:** documents to rebut Guatemala’s allegation of a special relationship between the arbitrator’s and expert’s former firms, Sidley Austin LLP and Navigant Consulting Inc. These consist of three documents: Navigant annual reports, information about Sidley’s size as a law firm over the relevant period of time and docket information from the cases that Guatemala has relied on.

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<sup>1</sup> See Annex I.

<sup>2</sup> See TECO’s letter of December 3, 2021.

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- **Category 5:** documents regarding the disqualification applications of Dr. Alexandrov in other cases, on which Guatemala has relied to make its arguments. These are six international arbitration press articles.
  - **Category 6:** relevant information from the ICSID website, in the form of procedural details of some of the cases relied upon by Guatemala, the table listing the outcomes in ICSID disqualification decisions and the announcement of Dr. Alexandrov’s designation to the ICSID panel of arbitrators.
13. Finally, Claimant also requests to introduce documents concerning the U.S. enforcement proceeding of the unannulled portion of the original Award. TECO claims that these documents would serve to provide the Committee with the full context and procedural history of the dispute between the Parties (**Category 7**).

**2. GUATEMALA’S ANSWER**

14. Guatemala asks the Committee to reject TECO’s application on different grounds.
15. First, Guatemala says that none of the New Documents are *prima facie* relevant:
- **Category 1:** Guatemala argues that these documents – purportedly verifying that the evidence on which Guatemala relies to contest Dr. Alexandrov’s independence and impartiality was publicly available – are irrelevant for the issues to be adjudicated by the Committee<sup>3</sup>.

The committee in *Eiser v. Spain* annulled the award due to the improper constitution of the tribunal despite the availability of the information to the public. The relevant issue in this case is that Dr. Alexandrov failed to disclose the information about his relationship with Mr. Kaczmarek and thus, Guatemala had no basis to seek his disqualification<sup>4</sup>.

- **Category 2:** the documents that would show that Dr. Alexandrov and Mr. Kaczmarek were engaged by opposing parties, or that the expert was directly engaged by Costa Rica in other cases are also irrelevant. This does not take away from the fact that Dr. Alexandrov and Mr. Kaczmarek had a long-standing relationship, including two arbitrations running in parallel to the underlying arbitration of this case<sup>5</sup>.
- **Category 4:** the documents regarding the volume of cases and workload of Sidley Austin LLP and Navigant Consulting Inc. are also irrelevant because they do not excuse Dr. Alexandrov from his duty to disclose his relationship with Mr. Kaczmarek<sup>6</sup>.

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<sup>3</sup> Answer, p. 4.

<sup>4</sup> Answer, p. 4.

<sup>5</sup> Answer, p. 5.

<sup>6</sup> Answer, p. 6.

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- **Category 5:** similarly, the documents concerning the outcomes of the disqualification proceedings against Dr. Alexandrov have no bearing in this case, because the relevant issue is whether, in the underling arbitration of this annulment proceeding, Dr. Alexandrov made a proper disclosure of his relationship with the expert<sup>7</sup>.
  - **Category 7:** the information regarding the U.S. enforcement proceedings relates to events that occurred after the Resubmission Proceeding and has no relation to Guatemala’s allegation regarding Dr. Alexandrov’s lack of independence and impartiality or any other of the issues the Committee is called upon to adjudicate<sup>8</sup>.
  - **Categories 3 and 6:** Guatemala says that TECO has failed to explain why it seeks to introduce any of the following documents: counsel and expert appearances in investor-State arbitration cases, information from the ICSID website on the procedural details of certain cases, the table listing the outcomes in ICSID disqualification decisions and the announcement of Dr. Alexandrov’s designation to the ICSID panel of arbitrators. Since TECO has failed to justify the reason why they are being presented, these documents lack *prima facie* relevance<sup>9</sup>.
16. Secondly, with respect to **Category 3**, the Applicant argues that TECO has failed to sufficiently describe the four documents comprised therein, and thus, Guatemala has been unable to contest their *prima facie* relevance. For this reason, the petition with respect to these four documents should be rejected<sup>10</sup>.

### **III. THE COMMITTEE’S DECISION**

#### **1. APPLICABLE LAW**

17. These annulment proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of April 10, 2006<sup>11</sup>. In accordance with Arbitration Rule 53, the ICSID Arbitration Rules apply *mutatis mutandis* to annulment proceedings.
18. Arbitration Rule 34 sets forth that:

“The [Committee] shall be the judge of the admissibility of any evidence adduced and of its probative value”.

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<sup>7</sup> Answer, p. 7.

<sup>8</sup> Answer, pp. 7 and 8.

<sup>9</sup> Answer, p. 3.

<sup>10</sup> Answer, pp. 3 and 4.

<sup>11</sup> Except to the extent modified and/or supplemented by the Dominican Republic-Central America Free Trade Agreement (“**DR-CAFTA**” or the “**Treaty**”), in force for the United States since March 1, 2006, and for Guatemala since July 1, 2006. See PO No. 1, para. 1.1.

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19. Further, in consultation with the Parties, the Committee determined certain rules concerning the marshalling of evidence in Sections 16.4 and 16.5 of PO No. 1:

“16.4. Given the nature of an annulment proceeding, the Committee expects that the Parties will primarily refer to the evidentiary record of the arbitration proceeding and it does not expect to receive new witness statements or expert reports.

16.5. In principle, no new evidence shall be admitted in this proceeding. Should either Party wish to introduce new documents or other evidence (other than legal authorities) – including factual evidence, witness statements, or expert reports - that Party shall file a request to the Committee to that effect. A Party may not annex the evidence it seeks to file to its request. The Committee will promptly decide on the admissibility of these new documents and/or evidence, after hearing from the other Party”.

20. Finally, and without prejudice to the above rules, pursuant to Section 24 of PO No. 1,

“[...] the Committee may take into consideration the International Bar Association Rules for the Taking of Evidence in International Arbitration (2010) [...]”.

**2. DISCUSSION**

21. In its PO No. 2, in the context of Guatemala’s request to submit new evidence, the Committee further developed the standard for admitting new evidence into the record<sup>12</sup>:

- First, the Committee must assess whether the new evidence is *prima facie* relevant to the adjudication of the case (**B.**); and
- Second, the Committee must determine whether given the present circumstances, the admissibility of the new evidence is warranted (**C.**).

22. With respect to TECO’s Request, Guatemala has raised a further objection concerning the New Documents of Category 3: that TECO did not provide a sufficient description of their content, and thus, the Applicant was not able to contest their admissibility (**A.**). The Committee will start by addressing this objection.

**A. Category 3: alleged failure to describe the New Documents**

23. Guatemala has requested that the Committee dismiss *ad limine* TECO’s application to introduce the New Documents of **Category 3** given Claimant’s failure to provide a detailed description of the content of the documents, which would have allowed the Applicant to properly assess the request.

24. The Committee does not share Guatemala’s view.

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<sup>12</sup> PO No. 2, para. 27.

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25. TECO has submitted a list describing the four New Documents of Category 3: these are three publicly available studies on international arbitration, which seemingly include information concerning appointments of experts and counsel in international arbitrations. TECO has provided the full name and date of publication of said reports, which are readily identifiable. The fourth document is a “recent biography of Mr. Brent Kaczmarek”, also available in the public domain<sup>13</sup>, which purportedly contains information on his appearances in investment arbitrations.
26. The Committee considers that the description of the New Documents was sufficient, and that Guatemala has had a full opportunity to challenge their relevance. Accordingly, Guatemala’s objection with respect to **Category 3** is rejected.

**B. Prima facie relevance to the grounds of annulment**

27. The Committee will address the *prima facie* relevance requirement of the New Documents of **Categories 1 to 6** separately from those of **Category 7**, given the two distinct justifications put forward by TECO to support its Request.

**Categories 1 to 6**

28. TECO seeks leave to submit the New Documents of **Categories 1 to 6** to rebut Guatemala’s arguments that Dr. Alexandrov lacked independence and impartiality; therefore, these New Documents are *prima facie* relevant to the issues that the Committee must decide.
29. The Committee takes note that in its Memorial on Annulment, Guatemala submits that the Resubmission Award should be annulled for improper constitution of the arbitral tribunal (Article 52(1)(a)) and for serious departure of a fundamental rule of procedure (Article 52(1)(d))<sup>14</sup>. Guatemala avers that<sup>15</sup>

“the most relevant facts supporting such grounds can be summarized in the facts that, during more than four years that the Resubmission Proceedings lasted [...]

(i) Dr. Alexandrov failed to disclose at least seven (7) cases in which he was working in parallel, or had worked in the recent past, directly with Mr. Kaczmarek [...]

(ii) Dr. Alexandrov also failed to disclose the nearly twenty-year professional attorney-client relationship that the firm to which he belonged for much of the pendency of the Resubmission Proceedings, Sidley Austin, had with Navigant [Mr. Kaczmarek’s former firm] [...]

(iii) [...] the non-disclosure of similar relationships had already caused Dr. Alexandrov at least three challenges in parallel international arbitrations [...]” [Emphasis by the Committee]

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<sup>13</sup> TECO provided the URL to access this document. See TECO’s letter of 3 December 2021, p. 5.

<sup>14</sup> Memorial on Annulment, para. 3 and Section V.A.

<sup>15</sup> Memorial on Annulment, para. 4.

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30. The Committee agrees with TECO that the New Documents pertaining to **Categories 1 to 6** are directly related to the factual allegations on which Guatemala bases its annulment request. The New Documents seem to contain information relating to Dr. Alexandrov and Mr. Kazcmarek’s relationship in prior cases (i), the relationship between their former firms, Sidley Austin LLP and Navigant Consulting Inc. (ii) and the disqualification applications against Dr. Alexandrov (iii).
31. Accordingly, the *prima facie* relevance of the New Documents of **Categories 1 to 6** is established.
32. For avoidance of doubt the Committee confirms that it has formed no conclusive view on the relevance or weight (if any) of the New Documents of **Categories 1 to 6** to Guatemala’s Annulment Application or TECO’s response.

**Category 7**

33. The New Documents pertaining to **Category 7** contain information related to the U.S. enforcement proceeding of the unannulled portion of the original Award.
34. TECO submits that these documents would serve to provide the Committee with the full context and procedural history of the dispute between the Parties. The Applicant objects to the introduction of these documents because they have no relation to any of the issues the Committee is called upon to adjudicate.
35. In this case, the Committee sides with Guatemala.
36. In PO No. 1, the Committee and the Parties agreed that<sup>16</sup>:

“Given the nature of an annulment proceeding, the Committee expects that the Parties will primarily refer to the evidentiary record of the arbitration proceeding”.
37. The Committee considers that the evidentiary record of the underlying arbitration contains all the relevant information concerning the context and procedural history of the dispute between the Parties.
38. The Committee does not consider that the information concerning the U.S. enforcement proceedings would significantly add to its knowledge of the context and procedural history of the underlying arbitration. Neither do these New Documents seem *prima facie* relevant to the annulment allegations put forward by Guatemala; consequently, the request to admit the New Documents of **Category 7** is rejected.

**C. Admissibility under present circumstances**

39. In PO No. 2 the Committee recalled that the special nature of annulment proceedings is limited to assessing very specific grounds of annulment that do not generally require evaluating new evidence. Accordingly, the marshaling of new

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<sup>16</sup> PO No. 1, para. 16.4.



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evidence is generally restricted, unless warranted by the nature of the grounds of annulment invoked.

40. In this case, the request is warranted for two reasons:
41. *First*, as already stated in PO No. 2, Guatemala’s allegations of serious departure from a fundamental rule of procedure and the improper constitution of the arbitral tribunal are based on new facts, which were not brought for evaluation before the arbitral tribunal. This was one of the reasons underpinning the Committee’s decision in PO No. 2 to accept Guatemala’s request to introduce new evidence. TECO’s request to introduce the New Documents of **Categories 1 to 6** is equally justified because such documents purport to address the new facts introduced by Guatemala with its Memorial on Annulment.
42. *Secondly*, the Committee also takes note that all New Documents of **Categories 1 to 6** are similar in nature to those that the Committee admitted into the record upon Guatemala’s request of August 11, 2021, *i.e.*, international arbitration press articles, information on investment arbitration cases, and other publicly available information related to the appearances of Dr. Alexandrov and Mr. Kaczmarek (or their former firms) in prior cases<sup>17</sup>. Permitting solely Guatemala to make use of these types of documents, without granting TECO the same opportunity to make rebuttal arguments, would run contrary to the principles of due process and equal treatment of the parties.

**3. DECISION**

43. In light of the above, and pursuant to Arbitration Rule 34, the Committee admits the New Documents of **Categories 1 to 6** and rejects the admission of the New Documents of **Category 7**.

[Signed]

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Ms. Deva Villanúa  
President of the Committee  
Date: December 15, 2021

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<sup>17</sup> See PO No. 2, A

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**ANNEX I**

No.	Evidence
<p><b>Category (i)</b> – Evidence that directly rebuts the new arguments made and evidence submitted by Guatemala in its Memorial (Third Annulment) in support of its allegation that Dr. Stanimir Alexandrov lacked independence and impartiality, warranting an annulment of the Resubmission Award, by showing that the new “facts” on which Guatemala relies were publicly available and, therefore, known or knowable by Guatemala long before it filed its Application for Annulment.</p>	
1.	Luke Eric Peterson, <i>Analysis: Umbrella Clause And Fair And Equitable Treatment Claims Founder in Unglaube v. Costa Rica Eco-Tourism Case Due to Inability to Show That State Had Made Key Promises</i> , IA Reporter 9 July 2012.
2.	Luke Eric Peterson, <i>Analysis: Tribunal in Costa Rica Case Rejects Investors’ Reading of Non-Discrimination Obligation, Affirms That Adequate Legal Remedies Are Part of Fair And Equitable Treatment</i> , IA Reporter 9 July 2012.
3.	Luke Eric Peterson, <i>Damages Analysis: Arbitrators in Costa Rica Case Wrestle With How To Compensate An Unlawful Expropriation When Treaty Is Silent</i> , IA Reporter 9 July 2012.
4.	Luke Eric Peterson, <i>In Split Decision, Majority Finds No Fault with Peru’s Treatment of Struggling Bank; Comparison of Claimant to Larger Rivals Are Not Appropriate</i> , IA Reporter 5 Mar. 2014.
5.	Luke Eric Peterson, <i>Jurisdiction Upheld In Peru Bank Failure Case Even Though Claimant Made No Investments, And Acquired Her Shares (For Free) Years After Bank Closure</i> , IA Reporter 5 Mar. 2014.
6.	Luke Eric Peterson, <i>Majority in Peru Banking Crisis Case Says That Savvy Investor Should Have Known Of the Strengths And Weaknesses of Peruvian Institutions</i> , IA Reporter 5 Mar. 2014.
7.	<i>Peru defeats banking claim at ICSID</i> , Global Arbitration Review (“GAR”) 4 Mar. 2014.
8.	<i>Claimant seeks to annul award over Peruvian bank</i> , GAR 27 May 2014.
9.	Richard Woolley, <i>Books balanced in Peruvian banking case</i> , GAR 9 Oct. 2014.
10.	Lacey Yong, <i>Panama faces ICSID claim over ecotourism resort</i> , GAR 23 Apr. 2015.
11.	Benjamin Button-Stephens, <i>Costa Rica narrows claim over turtle sanctuary</i> , GAR 27 Oct. 2016.
12.	Douglas Thomson, <i>Costa Rica wins at ICSID and defends DR-CAFTA award</i> , GAR 26 Jan. 2017.

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13.	<i>Baker Botts and Sidley pick up Costa Rica cases</i> , GAR 26 July 2013.
14.	<i>Aaron C. Berkowitz &amp; Ors. (formerly Spence Int’l Investments &amp; Others) v. Republic of Costa Rica</i> , ICSID Case No. UNCT/13/2, Hearing transcripts, Costa Rica’s pleadings, and expert report of Mr. Brent Kaczmarek.
15.	<i>Peru claim dismissed for abuse of process</i> , GAR 20 Jan. 2015.
16.	Clovis Trevino, <i>Arbitrators Toss Out ICSID Claim Against Peru Due to Abusive Restructuring of Investment</i> , IA Reporter 18 Jan. 2015.
17.	Luke Eric Peterson, <i>The Philip Morris v. Uruguay Award on the Merits: Part One of Our Three Part Analysis, Focusing on the Expropriation Claim</i> , IA Reporter 10 July 2016.
18.	Tom Jones and Sebastian Perry, <i>Uruguay defeats Philip Morris claim</i> , GAR 11 July 2016.
19.	Douglas Thomson, <i>UPDATED: Two Lat Am awards revisited at ICSID</i> , GAR 17 Aug. 2016.
20.	<i>Uruguay won’t cave in on tobacco laws</i> , GAR 7 Oct. 2010.
21.	Luke Eric Peterson, <i>Uruguay Hires Law Firm and Secures Outside Funding to Defend Against Philip Morris Claim; Not the First Time An NGO Offers Financial Support For Arbitration Costs</i> , IA Reporter 20 Oct. 2010.
22.	<i>Tribunal chosen in Uruguay tobacco dispute</i> , GAR 21 Mar. 2011.
23.	<i>Personnel Picked For Several ICSID Annulment Committees; Philip Morris v. Australia Case Leads To Resignation Of A Pair Of Arbitrators</i> , IA Reporter 21 Dec. 2012.
24.	<i>Arbitrators Selected to Hear Billion-Dollar Treaty Claim By Vattenfall Arising Out of Germany’s Phase-Out of Nuclear Power Generation</i> , IA Reporter 2 Jan. 2013.
25.	Douglas Thomson, <i>Uruguay fails to stub out Philip Morris claim</i> , GAR 5 July 2013.
26.	Michail Dekastros, <i>Analysis: Uruguay Fails to Persuade Arbitrators That Investment Treaty Does Not Protect Philip Morris’s Investments</i> , IA Reporter 17 July 2013.
27.	Richard Woolley, <i>World Health Organisation weighs in on tobacco case</i> , GAR 27 Feb. 2015.
28.	Luke Eric Peterson, <i>The Philip Morris v. Uruguay Award On the Merits: Part One of Our Three Part Analysis, Focusing on the Expropriation Claim</i> , IA Reporter 10 July 2016.

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29.	Tom Jones & Sebastian Perry, <i>Uruguay defeats Philip Morris claim</i> , GAR 11 July 2016.
30.	<i>Who is sitting at ICSID?</i> GAR 19 Aug. 2016.
31.	Alison Ross and Douglas Thomson, <i>Eventful times: GAR Live BITS, Washington, DC 27 April</i> , GAR 15 June 2015.
32.	Lisa Bohmer & Vladislav Djanic, <i>Peru Defeats BIT Claim By Spanish Investor</i> , IA Reporter 8 Mar. 2020.
33.	Tom Jones, <i>Peru defeats claim over vehicle inspection deal</i> , GAR 9 Mar. 2020.
<p><b>Category (ii)</b> – Evidence rebutting Guatemala’s allegations of a special relationship between Dr. Alexandrov and Mr. Kaczmarek, including in the form of cases in which they were engaged by opposing parties and publicly-available evidence showing that Mr. Kaczmarek was engaged directly by the party for some cases.</p>	
1.	<i>LSF-KEB Holdings SCA et al. v. Republic of Korea</i> , ICSID Case No. ARB/12/37, parties’ pleadings.
2.	<i>Gramercy Funds Management LLC, and Gramercy Peru Holdings LLC v. The Republic of Peru</i> , ICSID Case No. UNCT/18/2.
3.	<i>Convia! Callao S.A. and CCI - Compañía de Concesiones de Infraestructura S.A. v. Republic of Peru</i> , ICSID Case No. ARB/10/2.
4.	Order of the Ministry of Foreign Trade, Costa Rica dated 9 June 2010 with the reference “Direct Contracting 2010CD-001799-79600 Recruitment of Professional Services for the Issue of a Damage Report to provide evidence in the International Arbitration Process Marion Unglaube v. Republic of Costa Rica (ICSID Case No. ARB/08/1); and Reinhard Hans Unglaube v. Republic of Costa Rica (ICSID Case No. ARB/09/20), consolidated case.”
5.	(a) Final Resolution No. DM-00308-14, awarding contract no. 2014CD-000030-79600 (regarding professional services for the preparation of a report on damages to be used as evidence in international arbitration process <i>Spence &amp; Berkowitz v. Republic of Costa Rica</i> ) to Navigant Consulting, dated 19 June 2014, and (b) contract PI-COT-CAI-001-2014 executed between the Ministry of Foreign Trade, Costa Rica and Navigant Consulting, pursuant to the resolution.
<p><b>Category (iii)</b> – Relevant information regarding counsel and expert appearances in investor-State arbitration cases</p>	
1.	Credibility International, <i>Study of Damages Awards in Investor-State Cases</i> , Jan. 2021.
2.	UNCTAD Note, <i>Investor-State Dispute Settlement Cases: Facts And Figures 2020</i> , Sept. 2021.

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3.	<i>GAR 100 Expert Witness Power Index – and other tables</i> , GAR 28 Apr. 2020.
4.	A recent biography of Mr. Brent Kaczmarek specifying the number of investor-State arbitration cases in which he has appeared as an expert ( <a href="https://delosdr.org/my-events/conversation-special-on-quantum-experts/">https://delosdr.org/my-events/conversation-special-on-quantum-experts/</a> ).
<b>Category (iv)</b> – Evidence rebutting Guatemala’s allegations of a special relationship between Dr. Alexandrov’s former law firm, Sidley Austin LLP (“Sidley”), and Mr. Kaczmarek’s former firm, Navigant Consulting Inc. (“Navigant”), in the form of Navigant annual reports, information about Sidley’s size as a law firm over the relevant period of time, and docket information from the cases that Guatemala relies upon	
1.	Navigant Annual Reports 2010-2018.
2.	<i>Stearns, et al. v. Navigant Consulting Inc., et al.</i> 1: 99-CV-07617 (N.D. Ill. Nov 23, 1999) Court Docket and <i>Denari v. Genesis Insurance Co.</i> , No. 01 C 2015 (N.D. Ill. 12 Dec. 2003).
3.	SidleyAustin’s profile available at <a href="https://www.law.com/law-firm-profile/?id=274&amp;name=Sidley-Austin&amp;slreturn=20210915084438">https://www.law.com/law-firm-profile/?id=274&amp;name=Sidley-Austin&amp;slreturn=20210915084438</a> .
<b>Category (v)</b> – Evidence about the <i>outcome</i> of disqualification applications made in other cases, where Guatemala relies on the fact of the challenges against Dr. Alexandrov, without indicating the outcome of such challenges	
1.	Luke Eric Peterson, <i>Spain follows up on its annulment strategy by filing a request to disqualify arbitrator</i> , IA Reporter 18 Sept. 2017.
2.	Luke Eric Peterson, <i>Pakistan’s Effort to Disqualify Stanimir Alexandrov in Tethyan Copper Case Proves Unsuccessful</i> , IA Reporter 7 Sept. 2017.
3.	<i>Alexandrov survives Pakistan’s challenge over “rare” damages model</i> , GAR 8 Sept. 2017.
4.	<i>Pakistan challenges entire tribunal over Alexandrov expert ties</i> , GAR 29 Nov. 2017.
5.	Luke Eric Peterson, <i>An Update on Arbitrator Challenges, Resignations, and Un-Resignations</i> , IA Reporter 6 Feb. 2018.
6.	Lacey Yong, <i>Three ICSID arbitrators survive challenge by Pakistan</i> , GAR 8 Feb. 2018.
<b>Category (vi)</b> – Relevant information from the ICSID website, in the form of procedural details for some of the cases relied upon by Guatemala, the table listing the outcomes in ICSID disqualification decisions, and the announcement of Dr. Alexandrov’s designation to the ICSID panel of arbitrators	
1.	<i>Aaron C. Berkowitz &amp; Ors. (formerly Spence International Investments &amp; Ors.) v. Republic of Costa Rica</i> , ICSID Case No. UNCT/13/2, case details, available at:

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	<a href="https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=UNCT/13/2">https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=UNCT/13/2</a> .
2.	<i>ICSID Decisions on Disqualification</i> , available at: <a href="https://icsid.worldbank.org/cases/content/tables-of-decisions/disqualification">https://icsid.worldbank.org/cases/content/tables-of-decisions/disqualification</a> .
3.	<i>New Chairman’s Designations to the ICSID Panels</i> , ICSID News Release, dated 15 Sept. 2017.
<b>Category (vii)</b> – Documents concerning the U.S. enforcement proceeding relating to the unannulled portion of the Original Award, to which Guatemala was a party, in order to provide the Committee with the full context and procedural history of the dispute between the Parties	
1.	Jessica Gramajo, <i>US \$ 15 million frozen in the US from the State of Guatemala</i> , Soy 502 6 Nov. 2020.
2.	Urías Gamarro, <i>Fitch downgrades Eurobond due to default risk and warns about the country’s note</i> , La Prensa Libre 18 Nov. 2020.
3.	Emmanuel Louis Bacani, <i>S&amp;P puts Guatemala on CreditWatch negative due to bond payment dispute</i> , S&P Global Market Intelligence 23 Nov. 2020.
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