


PCA CASE NO. 2016-37

**IN THE MATTER OF AN ARBITRATION COMMENCED PURSUANT TO
THE ACCORD ON FIRE AND BUILDING SAFETY IN BANGLADESH AND
THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW
ARBITRATION RULES 2010**

between:

INDUSTRIALL GLOBAL UNION AND UNI GLOBAL UNION
(the “Claimants”)

- and -


(“Respondent”, and with Claimants, the “Parties”)

PROCEDURAL ORDER NO. 7
(ADJUSTMENTS TO THE PROCEDURAL SCHEDULE)

1 December 2017

The Tribunal

Mr Donald Francis Donovan (President)
Mr Graham Dunning QC
Professor Hans Petter Graver

Registry

Permanent Court of Arbitration
Tribunal Secretary: Ms Judith Levine

Pursuant to Paragraph 5.4 of the Terms of Appointment and Paragraph 43G of Procedural Order No. 6 of 22 November 2017 in PCA Case No. 2016-36 *IndustriALL Global Union and UNI Global Union v. [REDACTED]* and PCA Case No. 2016-37 *IndustriALL Global Union and UNI Global Union v. [REDACTED]* (**The Bangladesh Accord Arbitrations**), the Tribunal issues the following Procedural Order No. 7. As the caption reflects, this Procedural Order applies only to PCA Case No. 2016-37 *IndustriALL Global Union and UNI Global Union v. [REDACTED]*.

I. INTRODUCTION

1. This Procedural Order sets out adjustments to the procedural schedule.

II. PROCEDURAL BACKGROUND

2. Paragraph 3.1 of Procedural Order No. 1 in the Bangladesh Accord Arbitrations sets out a pleading schedule and hearing dates. The dates for pleadings and document production were adjusted by agreement of the parties on 21 June 2017, as approved by the tribunal on 12 July 2017. The following procedural schedule was agreed:

Claimants' Reply	29 December 2017
Respondent's Rejoinder	14 February 2018
Hearing	12 March 2018-17 March 2018

3. The tribunal in the Bangladesh Accord Arbitrations issued Procedural Order No. 5 (Document Production) on 7 November 2017.
4. The tribunal in the Bangladesh Accord Arbitrations issued Procedural Order No. 6 (Further Issues Concerning Document Production) on 22 November 2017, in which the tribunal requested the parties to report back to it on outstanding document production issues and the procedural schedule by 28 November 2017. The tribunal stated that “[u]nless the Parties report complete agreement, they should also advise their availability for a conference call, preferably on Wednesday 29 November, but if not on Thursday 30 November 2017, with the Presiding Arbitrator alone, who will consult with the Co-Arbitrators before making any decision.”
5. On 23 November 2017, the parties to PCA Case No. 2016-36 *IndustriALL Global Union and UNI Global Union v. [REDACTED]* informed the tribunal that the parties had agreed to suspend the arbitration for 21 days as of 23 November 2017. The parties noted that “there is no change in status to the other case Claimants have pending before this Tribunal, PCA Case No. 2016-37.”
6. On 25 November 2017, the tribunal confirmed its acceptance of the parties' joint request to suspend proceedings in PCA Case No. 2016-36 *IndustriALL Global Union and UNI Global Union v. [REDACTED]*
7. On 28 November 2017, the Claimants informed the Tribunal that the Parties were unable to agree on a revised procedural schedule. The Claimants submitted that it is reasonable for the Respondent to have a shorter period for preparing its Rejoinder than the Claimants for preparing their Reply. The Claimants noted that the procedural schedule should account for the fact that the Respondent has had the documents produced by the Claimants since 22 November 2017. Moreover, according to the Claimants, the procedural schedule should ensure that the Claimants have adequate time to review the Respondent's vast document production. The Claimants also submit that the procedural schedule should provide the Claimants with sufficient time to review the Respondent's Rejoinder ahead of the hearing.

8. The Claimants propose the following revised procedural schedule:

Claimants' Reply	12 January 2018
Respondent's Rejoinder	21 February 2018
Hearing	19 March 2018-25 March 2018

9. On 28 November 2017, the Respondent informed the Tribunal that it would complete document production in response to the Claimants' requests by 30 November 2017. The Respondent noted that the original procedural schedule allocated to the Respondent seven weeks for preparing its Rejoinder, which was reduced in July 2017 to six weeks and three days. The Claimants' proposed procedural timetable would leave the Respondent only five weeks and three days to prepare its Rejoinder. The Respondent objects to this further reduction, particularly since the Claimants' broad document production requests suggest that new allegations about new factories might be made for the first time in their Reply. The Respondent argues that there is no justification for the Claimants to be granted an extension for the submission of their Reply. The Respondent points out that the Claimants have had Respondent's Statement of Defence for three months. Moreover, following the suspension of PCA Case No. 2016-36, the Claimants now only have to make submissions with respect to one respondent. The Respondent suggests that despite the delay in Respondent's production of documents, the Claimants had the bulk of the documents "either a month before or in line with the original deadline." The Respondent attributes the delay in the production of documents responsive to Claimants' Request No. 21 to the Claimants' one-week delay in designating the 10 additional factories. The Respondent emphasizes that it should not be prejudiced by the Claimants' insistence on broad document production requests and on an expedited timetable.

10. The Respondent is willing to accept the following procedural schedule:

Claimants' Reply	5 January 2018
Respondent's Rejoinder	21 February 2018
Hearing	12 March 2018-17 March 2018

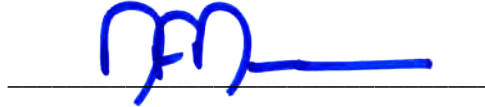
11. On 29 November 2017, pursuant to Paragraph 43G of Procedural Order No. 6, a procedural call was held between the Presiding Arbitrator and the Parties about the further procedural schedule.

III. TRIBUNAL'S DIRECTIONS

12. In accordance with the discussion during the procedural call, following consultations among all Tribunal Members, and taking account of the date of service of the Statement of Defence, the various dates of production of documents by the Claimants, the various dates of production of documents by the Respondent, the intervening holidays, the suspension of proceedings as against the other respondent, and the agreed adjustment of the commencement of the hearing, the Tribunal directs:
- A. The hearing shall commence on Saturday 17 March and run through Wednesday 21 March 2018, with Thursday and Friday, 22 and 23 March 2018, held in reserve;
 - B. On or before Tuesday 9 January 2018, the Claimants shall serve and file their full Reply submissions;
 - C. On or before Monday 19 February 2018, the Respondent shall file its full Rejoinder submissions;
 - D. On or before Friday 23 February 2018, the Parties shall notify each other and the Tribunal of the witnesses who should appear for cross-examination at the hearing; and
 - E. On or before Friday 15 December 2017, the Parties should advise their availability for a telephone prehearing conference during the week of 26 February 2018.

Place of Arbitration, The Hague

Dated, 1 December 2017



Mr Donald Francis Donovan
Presiding Arbitrator