IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN:

(1) KOREK TELECOM COMPANY LLC
(2) KOREK INTERNATIONAL (MANAGEMENT) LIMITED
(3) SIRWAN SABER MUSTAFA

Paying Parties (CFI Claimants/Appellants)

and

(1) IRAQ TELECOM LIMITED
(for itself and in the name and on behalf of INTERNATIONAL HOLDINGS LIMITED)
(2) INTERNATIONAL HOLDINGS LIMITED

Receiving Parties (CFI Defendants/Appeal Respondents)

ORDER WITH REASONS OF H.E. JUSTICE MICHAEL BLACK

UPON the Receiving Parties' Notice of Commencement of Assessment of Bill of Costs dated 16 September 2025

AND UPON the Paying Parties' Points of Dispute dated 4 November 2025

AND UPON the Receiving Parties' reply to the Paying Parties' Points of Dispute dated 23 December 2025

AND UPON the filings referred to above having been filed in Claim Nos. ARB-012-2023 and CA-016-2024

AND UPON reviewing the submissions on the Court file in Claim Nos. ARB-012-2023 and CA-016-2024

AND UPON Part 40 of the Rules of the DIFC Courts ("RDC")

AND UPON hearing counsel for the Paying Parties and counsel for the Receiving Parties at the Detailed Costs Assessment Hearing held before H.E. Justice Michael Black on 15 April 2026

IT IS HEREBY ORDERED THAT:

1. The Receiving Parties shall amend its Bill of Costs in accordance with paragraph 125 of the Schedule of Reasons and file the amended Bill of Costs by no later than **4pm GST on 13 October 2026**, for a final costs certificate pursuant to RDC 40.41.

2. An interim costs certificate shall be issued pursuant to RDC 40.36 in the sum of **USD 1,380,508.12**.

INTEREST

3. Simple interest shall accrue at the rate of 9% per annum until the date of payment, in accordance with Practice Direction No. 4 of 2017, on:

(1) The CFI Costs (as defined in the Schedule of Reasons), from 16 September 2025; and

(2) The Court of Appeal Costs (as defined in the Schedule of Reasons), from 16 June 2025.

COSTS OF THE ASSESSMENT

4. The parties shall exchange submissions on the costs of these assessment proceedings by no later than **4pm GST on 6 October 2026**.

5. Any submissions in reply shall be filed and served by no later than **4pm GST on 13 October 2026**.

Issued by:
Hayley Norton
Assistant Registrar
Date of issue: 22 September 2026
At: 2pm

SCHEDULE OF REASONS

INTRODUCTION

1. On 20 March 2023 by an award made in a DIFC-seated ICC arbitration (the "**Award**") Iraq Telecom Limited (for itself and in the name and on behalf of International Holdings Limited) (collectively "**Iraq Telecom**" or "**Receiving Parties**" or "**RP**") was awarded the sum of

approximately USD 1.65 billion, inclusive of pre-award interest and costs against (1) Korek Telecom Company LLC ("**Korek**"), (2) Korek International (Management) Limited ("**CS Ltd**"), and (3) Sirwan Saber Mustafa ("**Mr Mustafa**") (collectively the "**Korek Parties**").

2. On 14 April 2023, on the application of Iraq Telecom, the Arbitration Division of the Court of First Instance (the "**CFI**") made Orders, amongst other things, recognising the Award and directing that it be enforced in the same manner as a Judgment of the DIFC Courts pursuant to Articles 42(1) and 43(1) of the Arbitration Law 2008 and Article 24 of the Court Law 2004.

3. On 20 June 2023 the Korek Parties issued proceedings before the CFI seeking to set-aside of the Award pursuant to Article 41 of the Arbitration Law 2008 ("the "**Set Aside Application**").

4. On 15 September 2023, the Korek Parties issued the Set Aside Claim, which was advanced on four grounds and was accompanied by a 59-page witness statement with two exhibits totalling 7,737 pages, a 37-page UAE law expert report with a 480-page exhibit, and a 21-page Iraqi law expert report with an 80-page exhibit.

5. On 20 October 2023, the Korek Parties served reply evidence comprising an 11-page witness statement with a 127-page exhibit.

6. On 14 December 2023, CS Ltd, was made subject to a Joint Receivership Order by the Grand Court of the Cayman Islands in Cause No. FSD 88 of 2023 (IKJ).

7. On 15 December 2023, the parties filed a 32-page joint expert report on UAE law with a 26-page exhibit, and an 11-page joint expert report on Iraqi law.

8. On 14 and 15 February 2024 the Korek Parties and Iraq Telecom respectively served their Skeleton Arguments, and the Set Aside Application was heard between 19-21 February 2024.

9. On 29 August 2024 the Set Aside Application was dismissed with costs on the standard basis to be assessed by the Registrar if not agreed.

10. On 19 September 2024 Korek and Mr Mustafa applied to the CFI for permission to appeal (the "**PTA Application**") and for a stay of enforcement of the Award in the DIFC pending any appeal (the "**Stay Application**"). On 10 October 2024 Iraq Telecom filed their Skeleton Argument in response to the PTA Application and on 18 October 2024 their skeleton argument in response to the Stay Application. Korek and Mr Mustafa served evidence in reply a week later.

11. On 27 November 2024 the CFI granted PTA to Korek and Mr Mustafa but dismissed the Stay Application.

12. On 18 December 2024 Iraq Telecom filed a Respondent's Notice together with their Skeleton Argument for the appeal. Korek and Mr Mustafa filed their Supplementary Skeleton Argument for the appeal on 24 March 2025 and Iraq Telecom served theirs on 23 April 2025.

13. On 1 May 2025 the Appeal Hearing took place before the Court of Appeal and on 16 June 2025 the Appeal was dismissed with costs to be assessed by the Registrar if not able to be agreed. The basis of assessment was not stated in the Order but where the basis is not stated, the costs will be assessed on the standard basis (RDC 38.20(1)).

14. On 16 September 2025 the RP served *Notice of commencement of assessment of bill of costs* in respect of their costs in the CFI in the sum of USD 1,438,896.12 accompanied by the Bill of Costs (the "**CFI Bill**").

15. On the same day the RP served *Notice of commencement of assessment of bill of costs* in respect of their costs in the Court of Appeal ("**CA**") in the sum of USD 1,005,360.56 accompanied by the Bill of Costs (the "**CA Bill**").

16. On 4 November 2025 Korek and Mr Mustafa (the "**Paying Parties**" / "**PP**") served Points of Dispute (the "**POD**") of both Bills of Costs (the "**CFI POD**" and the "**CA POD**"). The POD were accompanied by annotated versions of the Bills - 552 line items in the CFI of which 403 were disputed and 428 line items in the CA of which 230 were disputed. Each disputed line item is addressed in 5 additional columns to each Bill. The PDF prints are somewhat inaccessible but the annotated Bills in Excel are easier to navigate.

17. In the annotated CFI Bill under the "*Bill of Costs*" tab each of the line entries is assigned a code to identify the PP's objections, proposed reductions and the time proposed. The codes are explained in the POD:

(1) APP/ACK - Considering the Set Aside Application;

(2) RESP - Responsive Evidence;

(3) JOINT - Joint Statement;

(4) PREP - Preparation for Hearing;

(5) HRG - Hearing;

(6) JMNT - Order with Reasons;

(7) EXP - Iraq Law Firm (Iraqi Law Expert).

18. The corresponding codes for the CA Bill of Costs are:

(1) PTA - Permission to Appeal;

(2) SKEL - Skeleton Argument;

(3) SUPPL - Supplemental Skeleton Arguments;

(4) PREP - Preparation for Appeal Hearing

(5) HRG - Hearing;

(6) JMNT - Judgment;

(7) BILL - Preparing the costs claim.

19. On 23 December 2025 the RP served their Reply to the CFI POD (the "**CFI Reply**") with a further version of the CFI Bill of Costs and Reply to the CA POD (the "**CA Reply**") with a further version of the CA Bill revising the total costs claimed amount to USD 999,527.80.

20. The Registrar was unavailable to undertake the detailed assessment of the costs in the CFI and the CA and it fell to me to do so. On 8 April 2026 the parties exchanged Skeleton Arguments of the maximum permissible length of 25 pages and on 15 April 2026 there was a full day's hearing before me.

THE APPLICABLE PRINCIPLES

21. The following principles are uncontroversial.

22. The threshold criterion when assessing costs, whether on the standard or indemnity basis, is that the Court will not in either case allow costs which have been unreasonably incurred or are unreasonable in amount (RDC 38.17).

23. Where the amount of costs is to be assessed on the standard basis, the Court will:

(1) only allow costs which are proportionate to the matters in issue; and

(2) resolve any doubt which it may have as to whether costs were reasonably incurred or reasonable and proportionate in amount in favour of the paying party.

(RDC 38.18).

24. If the Court is assessing costs on the standard basis, it will have regard to all the circumstances in deciding whether costs were:

(1) proportionately and reasonably incurred; and

(2) were proportionate and reasonable in amount.

(RDC 38.21(1))

25. As to proportionality it was said in *Melody v Melance* [2020] DIFC CA 010 (11 May 2021) at [78]-[79], [112]:

"78. Helpful guidance is also provided by the recent decision of the Court of Appeal in West v Stockport NHS Foundation Trust. In that case, the Court observed:

> ***"The right approach to costs assessment***
>
> *We are anxious not to restrict judges or force them, when assessing a bill of costs, to follow inflexible or overly complex rules. One of the matters, however, which is apparent from the many cases cited to us, and from the submissions of counsel on the hearing of these appeals, is that there is an absence of consistency in the way in which costs bills are assessed. Taking the various points made above and drawing them together, we give the following guidance on an appropriate approach.*
>
> *First, the judge should go through the bill line by line, assessing the reasonableness of each item of cost. If the judge considers it possible, appropriate and convenient when undertaking that exercise, he or she may also address the proportionality of any particular item at the same time. That is because, although reasonableness and proportionality are conceptually distinct, there can be an overlap between them, not least because reasonableness may be a necessary condition of proportionality ... This will be a matter for the judge. It will apply, for example, when the judge considers an item to be clearly disproportionate, irrespective of the final figures.*
>
> *At the conclusion of the line by line exercise, there will be a total figure which the judge considers to be reasonable (and which may, as indicated, also take into account at least some aspects of proportionality). That total figure will have involved an assessment of every item of costs, including court fees ...*
>
> *The proportionality of that total figure must be assessed by reference to ... [the Rules]. If that total figure is found to be proportionate, then no further assessment is required. If the judge regards the overall figure as disproportionate, then a further assessment is required. That should not be line by line, but should instead consider various categories of costs, such as disclosure or experts reports, or specific periods where particular costs were incurred, or particular parts of the profit costs.*
>
> *At that stage, however, any reductions for proportionality should exclude those elements of costs which are properly regarded as unavoidable, such as court fees ... and the like.*
>
> *The judge will undertake the proportionality assessment by looking at the different categories of costs (excluding the unavoidable items noted above) and considering, in respect of each such category, whether the costs incurred were*

disproportionate. If yes, then the judge will make such reduction as is appropriate. In that way, reductions for proportionality will be clear and transparent for both sides.

Once any further reductions have been made, the resulting figure will be the final amount of the costs assessment. There would be no further stage of standing back and, if necessary, undertaking a yet further review by reference to proportionality. That would introduce the risk of double counting

79. That approach appears to us to be consistent with Part 38 of the RDC, and it is an approach which should be followed by the Judges and Registrars of this Court.

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112. The Judge had been presented with a Detailed Bill of Costs, MELODY's detailed Response to that Bill and Melance' Reply to that Response. It was incumbent upon the Judge to undertake the assessment of each item of cost claimed by reference to these documents, in accordance with the authorities to which we have referred and Part 38 of the RDC. It was necessary for him to determine, item by item, whether Melance had established that the cost claimed was a cost incurred in relation to the injunction application which was proportionately and reasonably incurred and which was proportionate and reasonable in amount. The respective positions of the parties on that topic were set out in detail in the exchange of documents to which we have referred."

26. RDC 38.24 provides that in applying the test of proportionality the Court will have regard to Rule 1.6(3) ("*dealing with the case in ways which are proportionate - (a) to the amount of money involved; (b) to the importance of the case; (c) to the complexity of the issues; and (d) to the financial position of each party*"). The relationship between the total of the costs incurred and the financial value of the claim may not be a reliable guide. A fixed percentage cannot be applied in all cases to the value of the claim in order to ascertain whether or not the costs are proportionate.

27. The Court must give effect to any orders which have already been made (RDC 38.22).

28. The Court must also have regard to:

(1) the conduct of all the parties, including in particular:

(a) conduct before, as well as during, the proceedings; and

(b) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute;

(2) the amount or value of any money or property involved;

(3) the importance of the matter to all the parties;

(4) the particular complexity of the matter or the difficulty or novelty of the questions raised;

(5) the skill, effort, specialised knowledge and responsibility involved;

(6) the time spent on the case; and

(7) the place where and the circumstances in which work or any part of it was done.

(38.23)

29. In considering the conduct of the parties it is important to bear in mind the basis of assessment. A number of authorities cited before the Court relate to the difference between assessment on the indemnity and standard bases (e.g. *BSkyB v HP Enterprise Services* [2010] EWHC 862, at [37]-[40]; *GFH Capital v Haigh* [2014] DIFC CFI 020 (10 November 2016), at [3]-[5]). Here it has been determined that the appropriate basis shall be standard basis. As to the standard basis the CA said in *Melody*:

"*It is implicit in the structure of RDC 38.21 that in cases in which costs are assessed on the standard basis, the receiving party carries the burden of proving the amount of the costs which were proportionately and reasonably incurred and which were proportionate and reasonable in amount in conducting either the litigation generally, or the particular procedure within the litigation in respect of which costs were awarded in its favour*."

They contrasted this with the indemnity basis where

"*the receiving party will carry the burden of proving the costs which were actually incurred in the conduct of the litigation generally or the particular procedure in respect of which costs were awarded in its favour, after which the paying party will carry the burden of establishing that portion of the costs claimed which were unreasonably incurred or unreasonable in amount*".

It is often said (at the risk of oversimplification) that under the standard basis the paying party gets the benefit of the doubt, under the indemnity basis, the receiving party.

30. In the present case the RP make much of the PP's conduct which has been the subject of criticism by the original arbitral tribunal and by the CFI Judge as well as the fact that the PP are currently "*in breach of at least ten DIFC Court orders for the payment of money, with interest continuing to accrue*."

31. The RP contend that while this is precisely the conduct that *Practice Direction No. 1 of 2017 (Indemnity Costs for Failed Challenges to Arbitral Awards in the DIFC Courts)*, 3 recognises as warranting indemnity costs, although standard costs were ordered, this conduct remains relevant to RDC 38.23(1).

32. The Court must be astute not to reverse previous orders for assessment on the standard basis when considering the paying party's conduct. Indeed, it would be a breach of RDC 38.22 to do so. It is however correct that conduct does remain relevant under RDC 38.23(1).

33. The CA in *Melody* considered the relevance of a paying party's conduct. It held that the Court could, or should, not impose a sanction or penalty upon the paying party because of that party's lack of cooperation. The starting point for the assessment will always be the costs incurred by the receiving party. On the other hand, costs which would not normally be incurred, and therefore irrecoverable on an assessment, but which were incurred only as a consequence of the conduct of the paying party can, in those circumstances, be recovered by the receiving party. Later in the judgment [135] they reiterated:

> ". *the conduct of the paying party will be relevant if it has caused the receiving party to incur costs that would not normally be incurred and which would not therefore normally be recoverable. In such a circumstance, the additional costs may be recovered. However, the requirement to take the paying party's conduct into account does not authorize the Court to impose a penalty or sanction upon that party, or to increase the costs payable to the receiving party over and above the costs incurred doing work which was reasonable and proportionate, and in an amount which is reasonable and proportionate.*"

34. There is disagreement between the parties about internal solicitor discussions. The PP contend that internal solicitor discussions constitute irrecoverable "*overheads*". They rely on the decision of Master O'Hare in *Re Radcliffe* [2004] EWHC 90039 (Costs):

> "*In my judgment it is always, or almost always, inappropriate for a claim to be made for letters sent by one fee earner to another fee earner in the same firm. The allocation of tasks between them is part of the irrecoverable overhead of the firm. If the senior fee earner needs to be informed of some aspect of a matter, he should simply read the relevant attendance notes when the file is sent to him*".

35. The RP say that the correct approach was articulated in *R (on the application of Fuseon Ltd) v Shinners* [2020] 4 WLUK 161:

> "*Reasonable time spent in inter-fee discussions is properly allowable. It is difficult to delegate tasks to junior fee earners without instructing them what to do and the reasonable time of the delegator and the delegate is usually now considered to be recoverable*."

36. The RP submit that this reflects the realities of modern litigation practice. Large, document-heavy, specialist cases cannot be conducted by a single individual; they require coordinated teams, and the law recognises that time spent on instructions, supervision, and team alignment is properly recoverable. In contrast, it is said, *Re Radcliffe* is misplaced. That case concerned the costs of a solicitor acting as receiver for a patient with severe head injuries - quasi-administrative work wholly removed from adversarial, high-value litigation. Its observations have no application here.

37. The PP say that the RP rely on *Fuseon* in an impermissibly broad manner to claim the entirety of their solicitors' internal communications. In doing so, the RP seek to extend the principle in *Fuseon* to general discussions between fee earners, which is not supported by the authority. By "*inter-fee discussions*", the High Court did not endorse all internal communications as recoverable but was only addressing vertical delegation and the supervision of work between senior and junior fee-earners. Nothing in *Fuseon*, it is said, supports the recoverability of extensive horizontal discussion between senior (Grade A) fee earners.

38. In my judgment there is no "*one size fits all*" principle. It would be wholly unrealistic to contend that all communications between fee earners in the same firm are irrecoverable in complex multi-jurisdictional arbitration/litigation. Nor do I consider that only communications addressing vertical delegation and the supervision of work between senior and junior fee-earners are recoverable. There may be cases where communications between senior fee-earners are recoverable, where for example, different offices of the same firm in different jurisdictions or different specialist teams are involved. It will be necessary for the Court to consider the situation in each case.

39. *A fortiori* this principle will apply where there is more than one law firm representing a receiving party. The Court must scrutinise the costs claimed in respect of each item of work carried out by each firm to ensure that they were reasonably incurred (i.e. not duplicated) and reasonable and proportionate in amount. The CA addressed duplication of work in *Melody* at [127]-[130]:

> "*127. Ground 3 asserts that the Judge erred by rejecting the contention that he should have found that there was duplication of work by the law firms engaged sequentially .*
>
> *128. The Judge rejected that contention on the basis that he was not satisfied that the evidence established duplication of the work. However, there are, with respect, a number of errors evident in this approach.*
>
> *129. First, as with ground 1, the Judge appears to have misplaced the burden of proof. Melance carried the burden of proving that the work done was work done in relation to the injunction application, that the work was proportionate and reasonable, and that the amount claimed was reasonable and proportionate. Those requirements would not ordinarily be met if items of work had been duplicated because of a decision made by Melance to change legal representatives. To the extent that such a decision had the consequence of increasing the costs payable by Melance, those costs were to its account, and not to MELODY's account. Accordingly, it was for Melance to establish that the work the subject of its claim was not duplicated, rather than for MELODY to establish that it was. However, the judge appears to have approached the matter on the basis that MELODY carried the burden of adducing evidence establishing duplication.*
>
> *130. The second problem with the approach taken by the Judge is that his failure to undertake an item by item assessment of the Bill of Costs necessarily had the consequence that he was unable to assess whether or not there was any evidence of duplication of work."*

40. The PP refer to paragraph 6 of the order in *Motorola Solutions, Inc and Another v Hytera Communications Corporation Ltd and Another* [2021] EWCA Civ 11 when the English Court of Appeal stated:

> *"Note: in the Court's view the amount of £328,435 claimed by the Appellants as their costs of the appeal substantially exceeds a reasonable and proportionate amount for a case of this nature in the Court of Appeal."*

They say that the case was also listed for one day, involving an issue of general principle (and detailed skeletons that addressed many authorities), which was similar to the position in the Appeal.

41. I find the point of no assistance and indeed I note that while it is in the CA POD, the PP did not consider it worthy of repetition in their Skeleton Argument. Clearly, as the RP point out, the cases are wholly different in terms of parties, facts, jurisdiction, and issues. A mere unreasoned note cannot in any event have any precedential or persuasive value.

42. Reference is made in the CA POD to the judgment of the English Court of Appeal in *Hadley v Przybylo* [2024] EWCA Civ 250 at [48]-[51] where it was upheld that the categorisation of costs between "*progressive*" and "*non-progressive*" costs is a division unknown to the authorities; what are recoverable are "*incidental*" costs. It seems to me that the case turned upon the interpretation of the English legislation/rules.

THE APPROACH TO DETAILED ASSESSMENT IN GENERAL

43. This is an unusual case. It is unusual that a detailed assessment should be undertaken by a Judge; the usual order (as was the case here) is that the detailed assessment will be undertaken by the Registrar. RDC 40.3 provides that the Registrar or a Judicial Officer of the Court appointed for the purpose by the Chief Justice under Article 14 of the old Court Law, (now Article 15 of Law No. (5) of 2021 *Concerning the Dubai International Financial Centre* and Article 10 of the Courts Law 2025) (referred to as "*an authorised Court Officer*") has all the powers of the Court when making a detailed assessment.

44. RDC 40.29 to 40.35 provide for a detailed assessment hearing. I am advised by the Registrar that the usual procedure is that the Bill of Costs, Points of Dispute and any Reply are subject to the line by line exercise mandated by the CA in *Melody* in the hearing. Most cases do not involve 633 disputed line items nor claimed costs in excess of USD 2.4 million.

45. In all but the simplest of cases the most efficient approach will be to serve POD in the form of a Scott Schedule setting out (1) the point of principle or item number, (2) the grounds of dispute and any proposed alternative, (3) any reply, and (4) a blank column for Court use. The parties should expect the final column to contain the Court's assessment with or without brief reasons at the Court's discretion.

46. Parties may wish to look at the English Precedent G which can be found online.

47. English Precedent G is in the form of a horizontal "*Stern Schedule*". It gives helpful examples of succinct objections and counter-proposals. In the more complex cases involving hundreds of individual disputed items, a Scott Schedule with vertical columns may be more appropriate.

48. Also, in the more complex cases it may be appropriate to identify issues of principle affecting several line items, for the Court to give its decision on those issues and to instruct the receiving party to amend its Bill of Costs accordingly, or the parties to agree the result, before reverting to the Court for a final costs certificate under RDC 40.41. Before that date the Court may consider issuing an interim costs certificate under RDC 40.36 in respect of any undisputed items.

49. I should like to emphasise the following:

(1) First and foremost, detailed assessment proceedings are adversarial in nature. In an assessment on the standard basis the receiving party carries the burden of proving the amount of the costs which were proportionately and reasonably incurred and which were proportionate and reasonable in amount. The burden does not shift;

(2) In an assessment on the indemnity basis the receiving party still bears the burden of proving that costs were actually incurred, after which the paying party will carry the burden of establishing that portion of the costs claimed which were unreasonably incurred or unreasonable in amount;

(3) It is at this point that the receiving party should also identify any conduct on the part of the paying party that it is said has caused the receiving party to incur costs that would not normally be incurred and which would not therefore normally be recoverable. This is a factual issue, it does not authorise the Court to impose a penalty or sanction upon that party, or to increase the costs payable to the receiving party over and above the costs incurred doing work which was reasonable and proportionate, and in an amount which is reasonable and proportionate;

(4) In a standard basis assessment the burden of proving the amount of the costs which was proportionately and reasonably incurred and which was proportionate and reasonable in amount rests on the receiving party does not mean that it is appropriate for the paying party to say (as in the present case), "*The court is requested to assess the Bill of Costs on a line-by-line basis as to reasonableness (both in principle and as to amount)*" without more (in fairness to the PP in the present case they have said more), nor does it entitle the paying party to say, "*We consider all these costs excessive. We therefore require the receiving party to prove that they are reasonable and recoverable*". There must be a degree of particularity. In other words, while the overall burden of proof does not shift, there is an evidential burden on a paying party who raises a challenge;

(5) POD should be short and to the point;

(6) General points and matters of principle which require consideration before individual items in the Bill are addressed should be identified. In addressing general points and matters of principle the Court will recognise that the paying party will be unlikely to be able to identify their effects with precision and the Court may have to adopt a broader approach than it does in respect of specific points;

(7) Specific points should be made stating concisely the nature and grounds of dispute. The item numbers attributed to the individual items to which a complaint relates should normally be identified. How much particularity is required will vary from case to case, but the POD must be drafted in a way which enables the parties and the Court to determine precisely what is in dispute and why;

(8) Not only should the POD identify what is in dispute, they should also identify what is being conceded or offered. It is unhelpful to the Court if the paying party challenges a rate or item as excessive without stating, even in broad terms, what it contends would be reasonable and why. If for example, it is said that hours are excessive, it would generally be appropriate in addition to specify the level of fee earner;

(9) Wherever possible, the paying party must state what if anything it asserts the Court should order with as much particularity as it is able;

(10) The foregoing is necessary in order to enable the receiving party to be able to reply to the complaints. It is also necessary in order to enable the Court to deal with the issues raised in a manner which is fair, just and proportionate;

(11) The Court should not be left to try to ascertain what might be said to be excessive itself. That is not proportionate and it would be a waste of Court time especially without guidance as to which particular items are under challenge and why. It would also not be fair and just in that it would require the Court to adopt an inappropriate inquisitorial role in what is an adversarial hearing. There are limits to the extent to which the Court can adopt an inquisitorial role without creating a real risk of unfairness;

(12) The Court may have been able to look at proportionality when undertaking the line by line exercise, particularly if allowance has already been made for general points and matters of principle. If the Court regards the total figure as proportionate, then no further assessment is required. If the Court regards the overall figure as disproportionate, then a further assessment will be required. That should not be line by line, but should instead consider the various categories of costs. Any reductions for proportionality should exclude those elements of costs which are properly regarded as unavoidable (e.g. court fees). It is also important to avoid reducing further those elements already found to be proportionate. Once any further reductions have been made, the resulting figure will be the final amount of the costs assessment.

TWO PRELIMINARY POINTS

50. Before addressing this detailed assessment in particular, it is necessary to deal with two preliminary points raised by the PP:

(1) There were three law firms involved on behalf of the RP - Akin Gump Strauss Hauer & Feld ("**Akin**"), who conducted the litigation in respect of the Set Aside Application and Appeal; Meysan Partners ("**Meysan**") (counsel co-ordinating proceedings in respect of, and arising from, the PP's alleged fraud worldwide) and Jones Day (counsel representing the RP in the Arbitration proceedings). Meysan and Jones Day acted as Akin's co-counsel in the Set Aside Application and Appeal. The PP complain that the Bills of Costs, as originally filed, were signed only by Akin and not by Meysan and Jones Day, contrary to the guidance notes in the English Senior Courts Costs Office Guide 2023. On that basis, they submit that Meysan's and Jones Day's costs should be disallowed in their entirety; and

(2) The RP are in breach of RDC 40.10 for failing to commence detailed assessment proceedings in the permitted time period. The PP request that the Court exercise its discretion to disallow all interest that would otherwise be payable under Article 39 of the Court Law, No. 10 of 2004, pursuant to RDC 40.13.

51. As to the first point, the RP say this is without merit because the Bills of Costs comply with DIFC Practice Direction No. 5 of 2014, 7. The RP submit that there is no basis for importing English certification requirements into the DIFC costs regime; they are neither binding nor incorporated into the RDC.

52. I do accept the PP's submission that the signature of a Bill of Costs is no empty formality in that it specified the hourly rates applied (*Bailey v IBC Vehicles Ltd* [1998] 2 Costs LR 46, 423), but in this case the RP did file amended Bills signed by Meysan and Jones Day. The substance of the Bills was unchanged. The RP submit that the PP suffered no prejudice; their objection was technical in nature, and they engaged fully with the merits of the Bills, including the reasonableness and proportionality of the fees of Meysan and Jones Day. I see nothing in the point.

53. The second point is of more substance. RDC 40.10 provides that detailed assessment proceedings must be commenced within three months of the date of the right to detailed assessment, which for the purposes of the Set Aside Application was the Order of H.E. Justice Shamlan Al Sawalehi dated 29 August 2024. Accordingly, the RP should have commenced detailed assessment proceedings in respect of the Set Aside Application by 29 November 2024. In fact they commenced detailed assessment proceedings in respect of the Set Aside Application (and the Appeal Application) on 16 September 2025, more than nine months after the deadline set out in RDC 40.10.

54. The RP notes that the PP have a well-documented history of non-compliance with costs orders in the present proceedings and the related enforcement proceedings, with four outstanding unpaid costs orders between them totalling over USD 1.4 million. They suggest that in the circumstances, any suggestion that had the detailed assessment been commenced earlier, the PP would have promptly paid the sums due and thereby avoided the accrual of interest, is wholly unrealistic. No prejudice, it is said, has resulted from any delay, and there is accordingly no proper basis on which to disallow interest under RDC 40.13. The RP also claim that in line with the Overriding Objective, the RP did not commence detailed assessment while the appeal was pending, as this risked wasted costs and court resources. Permission to appeal was granted on 27 November 2024, two days before the deadline under RDC 40.10; awaiting the outcome enabled a consolidated assessment.

55. The PP reply that the Overriding Objective cannot be served by treating compliance with the RDC as optional. RDC 40.2 confirms that the fact the Set Aside Order was the subject of an appeal does not amend the deadline for commencing detailed assessment proceedings unless there is an order to that effect. The PP did not apply for a stay of detailed assessment pending the outcome of the Appeal Application.

56. The PP request that the Court should disallow *all interest* [original emphasis] that would otherwise be payable, pursuant to RDC 40.13. That cannot be justified. I do agree with the PP that there appears to be no valid reason why the RP did not commence detailed assessment proceedings by 29 November 2024 or alternatively seek a stay. In my judgment interest should be disallowed for the period 30 November 2024 to 16 September 2025 in respect of the CFI Bill.

THE APPROACH TO THIS DETAILED ASSESSMENT IN PARTICULAR

57. I will adopt the approach outlined at paragraph 48 above. I identify the issues of principle from the parties written and oral submissions and shall address them in the following order:

(1) Excessive Hourly Rates

(2) Use of Co-counsel and Over-manning at hearings

(3) Change of Leading Counsel and Overreliance on Leading Counsel

(4) Excessive fees incurred by UAE law expert

(5) Excessive time spent on Supplementary Skeleton Arguments

(6) In-person attendance at the Appeal Application hearing

(7) Other Specific Points

(8) Over-Seniority and Chronic Under-Delegation

(9) Excessive Internal Communication

(10) Excessive Administrative Work

(11) Bill Preparation

(12) Proportionality/Overall Costs/Overall Recovery.

EXCESSIVE HOURLY RATES

58. This is clearly a point that would affect almost every item.

59. The PP compare Akin's claimed rates with the Indicative Hourly Legal Charges under Registrar's Direction No. 1 of 2023. They produce the following table

SENIORITY	ACTUAL HOURLY RATES (US$)	DIFC COURT'S INDICATIVE HOURLY CHARGES (US$)	PERCENTAGE DIFFERENCE (%)[53]
Partners	1,300.50 to 1,825.00	1020.00	27.5% to 78.92%
10+ years	n/a	n/a	n/a
6 - 10 years	981.75 to 1,455.25	809.00	21.35% to 79.88%
Lawyers up to 5 years	832.50 to 1,095.00	651.00	27.88% to 68.20%

60. The PP note that the DIFC Courts issued the Indicative Hourly Charges on 9 June 2023 whereas the Bills of Costs contain rates charged between 2023 and 2025; however, in 2023 alone, it is said that Akin claimed hourly rates above the DIFC Courts' Indicative Hourly Charges.

61. The PP submit that in circumstances where the RP have elected to incur above-market legal fees, it is not appropriate for the PP to bear the resulting inflated costs of litigation. This would be particularly unreasonable given that the majority of the work for the Set Aside Application and Appeal Application has been undertaken by senior (Grade A) fee earners.

62. The PP request that the Court to consider Akin's excessive hourly rates in its assessment of the proportionality of the RP's costs.

63. I must say that I do not find the request particularly helpful. A proper approach would have been to calculate the effect of the alleged excessive rates based on what the PP says should have been the rates. This was possible but not done. It is not for the Court to do what a paying party should have done.

64. In oral submissions the RP pointed out that the challenge to the rates is not set out in the POD. They note that H.E. Justice Sir Jeremy Cooke observed in his costs Order dated 24 October 2023 following the grant of a freezing order in the present matter that "*the hourly rates are not properly the subject of criticism in a case of this magnitude*". This, they say, is not an average case and higher rates are justified.

65. In any event the RP say that headline rates criticised by the PP were in fact discounted both in the CFI and the CA.

66. The question of the appropriate hourly rates is not straightforward (particularly in the light of the discounts) and I do not feel that I have been provided with adequate material on which to form a view as whether they were excessive or not. As noted at paragraph 50(1) above the rates have been certified by Akin. I consider that I am unable to make any adjustment for allegedly excessive hourly rates.

USE OF CO-COUNSEL AND OVER-MANNING AT HEARINGS

67. The PP submit that the RP's use of three law firms has given rise to significant duplication and the costs claimed for Meysan's and Jones Day's fees are unreasonable. On the RP's own case, Meysan and Jones Day acted only in a supportive role to coordinate the global disputes between the parties. In other words, neither firm appears to have played a substantive part in progressing the Applications. The fees of these two firms

amount to a significant proportion of the RP's claimed costs, including 22.2% of the total Bill of Costs for the Set Aside Application (amounting to USD 319,490.90) and 13.7% of the total Bill of Costs for the Appeal Application (amounting to USD 137,641.41), and is therefore unreasonable.

68. The RP contend that the case's complexity and value justified co-counsel, and the involvement of each firm was necessary and proportionate:

(1) Akin, as the DIFC law specialist firm that has represented the RP in this jurisdiction across many years and related proceedings, had primary responsibility for the conduct of the case;

(2) Meysan and Jones Day each performed vital supporting roles, contributing to specific workstreams and providing strategic input:

(a) As the firms responsible for the global enforcement of the underlying Award, Meysan's and Jones Day's involvement in the Set Aside Claim was essential to provide strategic guidance on the DIFC proceedings and maintain consistency across jurisdictions;

(b) In the CFI Proceedings, Meysan also took a leading role in managing the UAE '*onshore*' law expert evidence - work for which it was well suited given the civil-law qualifications and experience of some of its practitioners. This was a substantial and complex workstream, encompassing a 32-page expert report supported by a 305-page exhibit (responding to the PP's 37-page expert report and 480-page exhibit), and a 32-page joint statement (in table form) supported by a 26-page exhibit. Had Meysan not undertaken this work, it would necessarily have been performed by another firm, and the associated costs would have been incurred regardless;

(c) Jones Day, having acted in the underlying arbitration proceedings (unlike Akin and Meysan), was also uniquely placed to provide input on the evidential and historical background to the Set Aside Claim. Had Jones Day not been involved, Akin would have been required to acquire, from scratch, the institutional knowledge that Jones Day had accumulated over the course of a three-year arbitration involving a substantial evidentiary record and intricate factual and legal issues. The time and cost required for new counsel to assimilate that material, and to do so under the time pressures inherent in set-aside proceedings, would have been significant;

(3) Further, Iraq Telecom is an investment vehicle ultimately owned by Agility Public Warehousing Company K.S.C.P. ("**Agility**") and Orange S.A. ("**Orange**"), who partnered in 2011 to invest in Korek. The separate ownership of Iraq Telecom necessitates co-counsel: Jones Day acts for Orange, Akin and Meysan act for Agility;

(4) The DIFC Court has also, in these and related enforcement proceedings, routinely awarded the RP their costs in respect of co-counsel fees. Moreover, in the Schedule of Reasons for the Order dated 7 August 2025 in ARB-009-2023, allowing 80% of Jones Day's, Akin's and Meysan's total fees, H.E. Justice Shamlan Al Sawalehi held at [3]: "*The structure and staffing of the [RPs'] legal team, and the steps taken in these proceedings, were proportionate to the complexity and procedural demands of the matter*". There is no reason to depart from that approach in these, the most significant and complex proceedings arising from the underlying Award;

(5) The PP are in any event poorly placed to criticise the RP's use of co-counsel, having themselves regularly employed co-counsel in these and related proceedings. In the CFI Proceedings themselves, both their current legal representatives (Boies Schiller Flexner (UK) LLP ("**BSF**")) and McNair International acted for the PP. This is a clear indicator that the RPs' approach was both reasonable and proportionate;

(6) Any allowance should be strictly limited to exclude duplication between the three firms. However, neither the POD nor the PP's mark-up of the Bills of Costs identifies any specific duplicative items.

69. I can dismiss the points at (3), (4) and (5) immediately. First, I can see no basis on which the internal shareholding of a party to litigation in which the structure is not itself the subject of the litigation (it was not mentioned at all in the relatively brief CFI judgment and only in the rather more comprehensive CA judgment by way of background narrative) could be said either (a) to justify separate representation for each of the shareholders as well as the party itself or (b) to entitle recovery of those separate representation costs from a counterparty. Secondly, I cannot see that an award of costs in a 6 paragraph summary assessment is of any assistance in the present detailed assessment. Thirdly, how the PP chose to structure their legal team is logically irrelevant to whether the RP's costs were reasonably and proportionally incurred and reasonable and proportionate in amount.

70. As to remaining points, the PP say as follows:

(1) The Court should reject this submission where the RP seek to justify their disproportionate costs on the basis that Akin and Meysan "*had to master the full background afresh, including the 296-page Award and substantial underlying documents*";

(2) The involvement of Meysan in the Set Aside Application, which the RP seek to justify on the basis that they managed the UAE `*onshore*' law expert evidence workstream given the qualifications of certain practitioners, was unwarranted given that only one of the five cited fee earners is admitted to practice in the UAE. Two of those fee earners are London-based, English qualified solicitors, who cumulatively incurred 216.24 hours for the Set Aside Application;

(3) The need for three solicitor firms to appear in the Appeal Application (in addition to Leading and Junior Counsel) was even more unnecessary given the narrowed parameters of the Appeal Application.

71. I have some sympathy with the PP's submissions. While I accept that an issue such as duplication between legal representatives may necessitate a broad approach, the PP have gone for an "*all or nothing*" approach in their final submissions. They could have identified some or all of the costs (as they did the 216.24 hours mentioned in both written and oral submissions) they contend were unnecessary or duplicated. They did not do so. In the CFI POD it is suggested that no time should be allowed for Akin's attendance at the numerous and often weekly strategy meetings. Objection is also taken to all communications between Akin and the other two firms, as duplicative and not progressive to the Set Aside Application. Alternatively, any allowance should be strictly limited to reflect the significant duplication between the three firms.

72. It seems to me that some liaison between Akin and the other two firms would be reasonable, but I have no material before me on which to

reach an assessment. It should have been possible to filter Akin's spreadsheet to identify "*Comms/other outside lawyers*".

73. In the CA POD the PP state:

> *"No justification has been provided as to the necessity for 3 firms to be jointly instructed on the Appeal. The description provided suggests little more than a watching brief, where Akin, as a noted multinational law firm, have all the necessary expertise to progress matters without external assistance.*
> *This is duplication and the Appellants submit the fees of Meysan Partners and Jones Day are unreasonable. Objection is also taken to all communications between Akin and the other two firms, as duplicative and not progressive to the Appeal. Alternatively, any allowance should be strictly limited to reflect the significant duplication between the three firms."*

Again, no figure for a limited allowance is given.

74. I do balance these observations with the PP's submission that they encountered difficulties because of block billing, uncertainty and ambiguity. I also do not lose sight of the fact that the RP bear the burden of proof. I also consider the position in the Court of Appeal is more straightforward than in the Set Aside Application - the points of law were defined, and I accept Meysan and Jones Day would have had little more than a watching brief. In these circumstances I do consider that it is necessary for the Court to attempt to make some estimation of justifiable reductions in the claim.

75. In my judgment the following adjustments should be made:

(1) Meysan

(a) It seems to me disproportionate for Meysan to recover 216.24 hours for two London-based, English-qualified solicitors, on the basis that they were required to manage the UAE law expert. Their costs must be deducted. I would however allow 20 hours of Mr Tarek Badawy's time assisting Mr Ali Al Hashimi (see paragraph 89 below);

(b) I accept that it would be reasonable for Meysan to attend both the Set Aside and Court of Appeal hearing, but the attendance shall be limited in the case of the former to a Grade B fee earner at GBP 425 per hour for (taken from the transcript) (7.3 + 6.7 + 3.6) for 17.6 hours and the case of the latter 5 hours - 22.6 hours in all. I note that the PP accept that attendance by the Akin fee earners at the CFI hearing was sufficient (CFI POD (inc. Reply) page 4).

(2) Jones Day - likewise in respect of the hearings I will allow for Me. Harb at EUR 600 per hour for the same hours (see in particular line 384 of the CA Bill spreadsheet);

(3) Both - I do consider that it is reasonable that there should be liaison by Akin with external Counsel but duplication must be avoided. I would allow each an additional 5 hours at the Grade B rate for Maysan and Me. Harb's rate for Jones Day.

CHANGE OF LEADING COUNSEL AND OVERRELIANCE ON LEADING COUNSEL

76. The PP allege that the RP's decision to not proceed with the instruction of Joe Smouha KC, and ultimately to instruct Tom Montagu-Smith KC, led to unnecessary costs. They note that the RP contend that the instructions of Leading Counsel were not transferred, but that two Leading Counsel were initially considered necessary, with Mr Smouha providing initial guidance on discrete issues in the Set Aside Application. The PP say that is undermined by the fact that the RP do not claim any fees for Mr Smouha or Tom Ford (the initial Junior Counsel instructed). If "*guidance*" from Mr Smouha was in fact deployed in the Set Aside Application, that time would have been claimed. It is clear that any advice obtained from Mr Smouha was either not pursued or was duplicated by the instruction of Mr Montagu-Smith. The PP therefore submit that the change in Leading Counsel has given rise to excessive costs of USD 11,198.52 which should be disallowed.

77. I cannot see any basis on which I could find that the RP are seeking to mislead the Court in stating that initially Mr Smouha was instructed in parallel to Mr Montagu-Smith on the basis that Mr Smouha was instructed given his expertise in the English approach to the Act of State Doctrine but as the issues in the case became more focussed on DIFC and UAE law, with any English law Act of State questions capable of being addressed through further research by the solicitor teams, Mr Montagu-Smith was instructed as sole lead counsel.

78. The RP say that the fees of Mr Smouha and Mr Ford have not been claimed, underscoring their reasonable approach to costs. It is a matter for any party what costs it seeks to pass on - I am not willing to assume any sinister intent.

79. On page 10 of the CFI POD the PP do identify certain line items they say led to duplicated costs. I have looked at those items and I do not consider that they should be deducted.

80. The PP say that the RP's costs claimed for Leading Counsel's fees in the Set Aside Application are disproportionate. They note that the RP engaged Leading Counsel at a very early stage in the Set Aside Application and maintained the involvement of Leading Counsel across all phases of the Applications. By contrast, Junior Counsel was only engaged from the time of the hearing of the Set Aside Application. This led (it is said) to Leading Counsel being involved in work which would ordinarily be performed by junior solicitors or Junior Counsel, including: (i) reviewing expert reports and witness statements; and (ii) collating DIFC Court decisions and summaries.

81. I see nothing exceptional in the former and the latter misstates the item, which reads, "*Paid fee to counsel, Mr Tom Montagu-Smith KC, for considering draft instructions to Iraqi law expert, attending conference call with counsel, Tom Ford, and collating DIFC arbitration decisions and summaries for him*" It is clearly more than a merely administrative exercise. There will be no deduction.

82. The PP continue that in circumstances where the RP: (i) engaged (and have claimed costs for) three separate law firms for the Set Aside Application, and (ii) ultimately decided to engage Junior Counsel for the Set Aside Application, the quantum of costs claimed for Leading Counsel (USD 291,448.30) for the Set Aside Application is unreasonable. In such circumstances, they request that the Court assess the RP's costs claimed

for the fees of Leading Counsel for the Set Aside Application and make any reductions it considers proportionate.

83. Again, I am not assisted as to what would be said to be reasonable. This was a heavy application. As noted by the RP, the PP filed a 59-page witness statement with exhibits totalling 7,737 pages, a 37-page UAE law expert report with a 480-page exhibit and a 21-page Iraqi law expert report with an 80-page exhibit. Senior judgment was required when the strategy, case theory, and litigation approach were being formulated. The Set Aside Claim raised unprecedented legal issues for the DIFC Courts, including the existence, scope and application of the Act of State doctrine within the DIFC and the treatment of illegally obtained evidence in DIFC-seated arbitrations, which required detailed analysis before the claim could be dismissed on its facts. The novelty and complexity of these issues required considerable time to be spent drafting submissions and preparing for oral argument. Further, the reliance on foreign law evidence necessitated substantial preparation for cross-examination. The hearing lasted 3 days in all.

84. I cannot see a basis on which to make a reduction in the fees of Leading Counsel.

85. Having that, I think that the PP are on stronger ground when looking at the involvement of Meysan and Jones Day.

EXCESSIVE FEES INCURRED BY UAE LAW EXPERT

86. The PP say that the fees claimed on behalf of the RP's UAE law expert, Mr Ali Al Hashimi, for the Set Aside Application amount to USD 182,194.25 and are excessive. The Bill of Costs does not provide any details of the work done or time spent by Mr Al Hashimi. The quantum of fees sought must be considered in light of the facts that:

(1) Mr Tarek Badawy, a partner at Meysan Partners, appears to have spent 116.45 hours supervising Mr Al Hashimi, reviewing Mr Al Hashimi's work, reviewing the Claimant's UAE law expert evidence, and researching and advising on UAE law issues (CFI Bill, Items 27, 42, 74, 78, 80, 83, 88, 92, 99, 116, 117, 118, 131, 144, 154, 158, 166, 174, 185, 200, 203, 204, 206, 210, 213, 217, 220, 228, 230, 234, 247, 248, 252, 255, 263, 270, 276, 282, 286, 290, 345, 358, 364, 366, 375, 377, 466, 499, 513, 525);

(2) Mr Al Hashimi's expert report was only 32 pages in length;

(3) 23.71% of the fees were incurred for preparing for and attending a 2-hour joint expert meeting and completing a column in a 32-page joint expert statement, the template of which had been prepared by the parties' legal representatives. In circumstances where (i) by this stage, both experts had already opined on all of the issues, and (ii) the joint expert report process involved responding to a limited number of questions posed to the experts by the parties, Mr Al Hashimi's excessive fees for the joint expert process are not justifiable;

(4) 27.66% of these fees were incurred for preparing for and attending court, in circumstances where, by that time, Mr Al Hashimi was fully seized of the issues in the Set Aside Application, having prepared his expert report, attended the joint expert meeting and prepared a joint expert statement.

87. The PP suggest that only USD 65,000 should be recoverable for Mr Al Hashimi's fees. The detail is set out at pages 19 and 20 of the CFI POD:

(1) Item 380 - USD 88,597.90 for the preparation of the report. The PP accept there is an element of complexity in the expert evidence, dealing as it does with issues of Act of State, hearsay evidence and public policy but these were matters which an expert in UAE law could readily engage with, to the extent that the level of fees incurred cannot be justified. They submit that USD 25,000.00 should be allowed. In my view that is too little, but I do think that USD 50,000 would be a more proportionate figure;

(2) Items 381, 382 and 383 - USD 43,198.47 preparing for and attending the meeting of experts and the preparation of the joint statement. The PP submit that USD 15,000 should be allowed. Again, in my view that is too little, but I do think that USD 30,000 would be a more proportionate figure as I do recognise that the joint statement was a pivotal document;

(3) Item 529 - USD 50,397.98 for preparing for and attending court. The PP suggest USD 25,000. I consider that USD 40,000 would be a more appropriate figure.

88. I will therefore allow USD 120,000 in respect of the UAE Law Expert's fees.

89. I cannot however allow the 116.45 hours claimed by Mr Badawy, for supervising Mr Al Hashimi, reviewing Mr Al Hashimi's work, reviewing the Claimant's UAE law expert evidence, and researching and advising on UAE law issues. Mr Al Hashimi is a respected and senior UAE lawyer. Mr Badawy is said to be "(Egypt/UAE)" qualified although it is not suggested that he is admitted in the UAE. I do accept that he might have been able to assist Mr Al Hashimi (who will also have his own staff) and I would allow 20 hours.

EXCESSIVE TIME SPENT ON SUPPLEMENTARY SKELETON ARGUMENTS

90. The PP contends that "*an extraordinary*" 311.11 hours was spent by the RP's solicitor teams for the preparation and service of its Supplementary Skeleton Argument for the Appeal Application, in addition to the fees of Leading Counsel and Junior Counsel. This time includes 172.1 hours researching the application of the Act of State Doctrine in various jurisdictions and preparing a "*research note*" in respect of same. The PP suggest that the input was limited especially as the preparation of the Supplementary Skeleton Argument should have formed part of Leading Counsel's brief fee - reference is made to paragraphs 96 to 111 of the skeleton.

91. The CA POD identify 15 line items for detailed comment. The Annotated CA Bill, Column AD (`*Proposed*') with Column AC (`*Category for Points*') filtered by SUPPL produces 249.80 hours.

92. The RP say that the additional work arose entirely from the Appellants' Supplementary Skeleton, which, for the first time in these proceedings, introduced comparative-law arguments relating to five additional jurisdictions: the United States, Australia, Singapore, Canada, and Hong Kong.

The fact that the RP's Supplementary Skeleton devoted only a limited number of pages to these jurisdictions is immaterial. It was necessary for the RP to investigate fully the law in each jurisdiction and consider its relevance to the Appeal. This involved the identification of all relevant case law in each jurisdiction and a detailed review of the same, as well as the review of various academic articles and commentaries. It is emphasised that by the core ground of appeal, the DIFC CA was for the first time being asked to consider the existence and scope of the act of state doctrine in DIFC law, and therefore the research undertaken was of the highest importance.

93. Moreover, it is said, the introduction of new points in the Appellants' Supplementary Skeleton (likely reflecting a change in their counsel) meant that the RP's Supplementary Skeleton necessarily had to address new issues, making it once again necessary for the solicitor team to conduct a careful and substantive review of the drafts to ensure the submissions were accurate and coherent.

94. The RP also addressed the specific items.

95. It seems to me that, standing back, 311.11 hours does appear excessive for work on a skeleton argument in addition to the work of Leading and Junior Counsel who have primary carriage. While there may be arguments on individual items, overall, a reduction to 249.80 hours (USD 298,982) as proposed by the PP seems a reasonable and proportionate compromise.

IN-PERSON ATTENDANCE AT THE APPEAL APPLICATION HEARING

96. The RP claim costs of USD 14,423.26 for Leading and Junior Counsel's travel expenses for attending the fully remote/virtual hearing of the Appeal Application in-person in Dubai. The PP submit that in those circumstances, travel and accommodation expenses were entirely unnecessary. The RP's contention that it was "*sensible*" for counsel to be physically present in the DIFC, so that one part of the solicitor team could physically sit with counsel is, it is said, not compelling in circumstances where the PP's counsel joined the hearing of the Appeal Application remotely from London.

97. I disagree with the PP. I consider that there was a benefit to having Counsel and the Akin team sitting together and it is therefore reasonable and proportionate for the RP to recover their travel costs.

OTHER SPECIFIC POINTS

98. It is probably most helpful if I deal with these in schedule form.

Item	Challenge	Reply	Decision	Deduction USD
CFI				
68		Conceded		**1,178.10**
72	Preparation and amendment of an engagement letter and terms of business with an expert is a solicitor and client overhead	Time reasonable ("**TR**")	No deduction ("**ND**")	0
79	Continuing negotiations over the expert terms of engagement unreasonable	TR	ND	0
141	Excessive time ("**XT**") to consider the report of Dr Al Mulla - submit 3 hours should be allowed	Time claimed reflects not merely reading the Al Mulla report but also undertaking the full suite of consequential work required at that stage	Will include time liaising with Meysan whose time is disallowed - **deduct 2 hours**	**1,963.5**
163	XT to work on a list of questions - submit 1 hour should be allowed	Time entry does not just cover reviewing and commenting on draft questions for the UAE law expert but also covers analysing the Iraqi law expert's summary views, and coordinating with the broader legal team	As 141 - **deduct 1 hour**	**981.75**
284-301, 304-315 and 317	XT spent at 51.02 hours to consider and prepare a responsive letter on conflict in connection with the UAE law expert	PP raised an allegation that Mr. Al Hashimi, had an undisclosed conflict of interest. The allegation was baseless and the PP ultimately did not press any objection.	I consider that this is an example of costs incurred only as a consequence of the conduct of the PP and are recoverable in full - ND	0
328	XT to consider two expert agendas - submit 2 hours should be allowed	Involved reviewing and commenting on two separate expert agendas and coordinating with multiple stakeholders	As 141 - **deduct 4.20 hours**	**4,002**
334	XT for further unidentified work on the two expert agendas - submit 1 hour should be allowed	TR - finalisation of two separate expert agendas, incorporating input from counsel and both expert teams	Agree XT - **deduct 4 hours**	**3,811.52**
336	XT for further unidentified work on the two expert agendas - submit 1 hour should be allowed	TR - finalisation of two separate expert agendas, incorporating input from counsel and both expert teams	Agree XT - **deduct 1.4 hours**	**1,767.15**

Item	Challenge	Reply	Decision	Deduction USD
346	XT to finalise the expert agendas - submit 1 hour should be allowed	Not limited to finalising agendas involved coordinating with (i) opposing counsel, (ii) White & Case, who were facilitating the joint meeting of the Iraqi experts, and (iii) the RP's UAE law expert to address procedural issues for the meetings and to prepare the experts for those meetings	As 141 - **deduct 2 hours**	**1,905.76**
394	Appears to relate to correspondence with a third-party and has been wrongly coded as document time Appears to relate to advice on court procedure which should be within the knowledge of the Grade A solicitor	Typo for 384. White & Case acted as counsel in the underlying arbitration, and Mr. John Willems, the lead Partner at White & Case, was the Defendants' witness in the Set Aside Application. The "applicable rules" concerns the Restricted Access Regime agreed between the parties in the Arbitration	ND	0
419	Wrongly coded as document time - generalised and duplicative review of the UAE expert evidence, already considered at length by multiple fee earners- submit 1 hour should be allowed	Covered essential pre-hearing tasks: coordinating with the Registry, Claimants, and counsel on bundles and logistics, engaging with counsel's clerk and reviewing the UAE expert evidence specifically for deployment at the hearing; could not reasonably be completed in the one hour proposed	ND	0
440	XT - inadequately described as "*multiple discussions*" or "*logistics*" and should have been coded separately - no time should be allowed for the internal exchanges - submit 4 hours should be allowed	Even where counsel prepares the draft, solicitors must ensure that the submissions accurately reflect the evidence, procedural history and factual record, and that the document is coherent and strategically sound. The time entry also covered essential Partner discussions, coordination with counsel, work on the chronology, and hearing logistics, all integral to preparing the case and ensuring strategic alignment.	ND	0
459	Generic challenge as administrative	Not irrecoverable administrative overhead, ensuring the remote hearing setup functions correctly is an essential part of case preparation, not a mere administrative task	Agreed is administrative - **deduct 666.00**	**666.00**
462	The conference with Counsel and the expert lasted 0.8 hours (see item 463). The remainder of the time is vaguely described, inadequately coded and excessive. It also contains unidentified internal discussions (see Item 464) - submit 5 hours should be allowed.	Includes bundle work, consideration of new Iraqi law materials and addressing restricted access issues. Also covers a review of the PP's skeleton, received that day and contained a number of points not previously covered in the evidence, which required urgent consideration.	Will allow 8 hours - **deduct 2.2**	**2,385**
471	A further 7.9 hours spent in perfecting the Skeleton Argument. XT - submit 4 hours should be allowed	In addition to undertaking a final review of the RP's skeleton argument, the entry also included preparing for and attending calls with the Iraqi law expert, discussions with the counsel team, managing filing and service, and drafting	XT is light of previous entries - **deduct 3.9 hours**	**4,650.75**
476	Duplication - submit 2 hours should be allowed	Partner's time is not duplicative, reflects senior-level oversight, strategic input, and decision-making on the skeleton argument, expert engagement, and related correspondence; the 4 hours is TR.	Involves duplication with Meysan - **deduct 1 hour**	**1,476**
481	Generic challenge as administrative	Not an irrecoverable administrative overhead - liaising with the support team to ensure technical arrangements for the remote hearing was an appropriate task for a junior fee earner	Agreed is administrative - **deduct 1,498.50**	1,498.50

Item	Challenge	Reply	Decision	Deduction USD
494	XT reviewing transcripts	The transcript was 224 pages and required careful review, inter alia, to identify any references to Restricted Access Material requiring redaction in accordance with the confidentiality regime agreed between the parties. The time entry also covers other preparatory and follow up work, as well as discussions with other members of the legal team.	Does not seem excessive - ND	0
507	XT reviewing transcripts	As 494 - the transcript was 138 pages	Does not seem excessive - ND	0
546	Duplicative Fee Earner MS4 considered the Reasons in detail on the previous day (see Item 538)	Item 538 concerned an initial review of the Order with Reasons and related strategic discussions, including the impact on parallel proceedings. Item 546 addresses a distinct and necessary subsequent task: consideration of the full Judgment and the potential grounds of appeal, followed by further strategic discussion.	Does seem duplicative - **deduct 1.60 hours**	**1,802**
547	Duplicative Fee Earner GL4 considered the Reasons in detail on the previous day (see Item 540)	As 546	As 546 - **deduct 0.8 hours**	**1,115.20**
550	XT - Bill of Costs, fails properly to separate and identify the time spent on communications from more general preparatory work and further to separately code the internal communications, despite the existence of a code (Coms-Internal C7) to allow this to be easily undertaken	Bill spans over 550 separate entries, demonstrating the significant effort required by the costs lawyer. While some entries were recorded in blocks and not every internal communication separately coded, this reflects a reasonable and proportionate approach. The alleged lack of granularity is unrealistic and would have led to greater cost in preparing the Bill.	ND	0
551	The Bill was prepared by a Solicitor/Costs Lawyer. The need for a Partner to spend a further two hours considering and checking the Bill of Costs was unnecessary and a duplication of the time claimed at Item 552	The Bill was prepared by a costs consultant at Masters Legal Costs Services, whose hourly rate was USD 222.72, and subsequently reviewed and signed off by a Partner at Masters Legal Costs Services, with an hourly rate of USD 286.36. There is no duplication of the time claimed at Item 552 - the time spent by Mr. Lovett, the supervising Partner at Akin, in reviewing and checking the Bill	ND	0
TOTAL				**29,203.23**
CA				
6	Reading press articles regarding the Order with Reasons of H.E. Justice Shamlan Al Sawalehi dated 21 August 2021 has nothing to do with the Appeal	The time entry also covers "*addressing enquiries over [Foreign Act of State] doctrine arguments and identifying relevant information*." The RP accept that the costs incurred in reviewing the relevant press articles is not recoverable and concede 50% of the costs claimed for this time entry.	**Allowed**	**1,124.52**
95	A generalised and non-progressive file review	Supervisory Partner, Mr. Lovett was required to review the relevant material. In any event, the correct test is not whether a task is "progressive" - see paragraph 42 above	**Disallowed** - not sufficiently particularised	**656.00**
169	The time spent is excessive to consider the PTA Order. The Appellants submit 30 minutes should be allowed	The PTA Order contained detailed reasons from H.E. Justice Shamlan Al Sawalehi spanning 18 pages - TR	ND	0
170	As 169	As 169	ND	0
174	As 169	As 169	Appears duplicative	**696.24**

Item	Challenge	Reply	Decision	Deduction USD
188	This was Counsel's work and within the fees paid to the Counsel team. This time should be disallowed as unreasonable. Further and in the alternative, 1.5 hours should be allowed.	In a high-value, complex appeal such - TR	ND	0
192	XT - submit 1 hour should be allowed	The time recorded reflects the care and strategic analysis	**Deduct 1 hour**	**1,325**
214	XT - submit 2 hours should be allowed	Given the high value and complexity of the appeal, as well as the novel legal issues it raised - TR	**Deduct 3.3 hours**	**4,372.50**
223	The preparation of availability dates is not fee earner work	Listing is not routine administrative work	**Disallowed**	**1,722.50**
228	The time spent on the previous day (Item 227) is sufficient to consider and revise the consent order	Work recorded related to a further amended consent order and updated joint correspondence	Both this time and 227 include irrecoverable time with Meysan - **disallow**	**1,457.50**
230	As 228	Relates to further correspondence with PP regarding procedural matters	ND	0
231	As 228	Supervisory Partner, Mr. Lovett was required to review the relevant material	ND	0
232	Little more than a diary availability exercise which is administrative, non-fee earner work - submit 0.4 hours should be allowed.	Timetabling requires strategic consideration of how the case should be presented and managed; it is not a clerical exercise.	**Disallowed**	**1,060.00**
238	Duplicative file review	Attending to procedural matters including timetabling and listing is an essential aspect of preparing for a hearing. While the majority of this work was carried out by MS, Supervisory Partner, Mr. Lovett was required to review the relevant material.	**Disallowed**	**984.00**
240	XT - submit 30 minutes should be allowed	Ongoing procedural/listing issues with the RP's legal representatives and the client, as well as the PP and the Court	Allow 1 hour - **deduct 1.3**	**1,722.5**
242	Generalised and non-progressive file review	Supervisory Partner, Mr. Lovett was required to review the relevant material	Accept generalised - **disallowed**	**1,312.00**
246	As 242	As 242	As 242	**328.00**
257	XT - submit 1 hour should be allowed	This entry reflects not only work on variations to the directions but also careful consideration of Justice Black's position as a member of the appeal panel	ND	0
326	Obtaining and considering quotations for transcription work is an administrative, office overhead	Relates to arranging a live transcript for the hearing. Case-specific litigation task, not day-to-day administrative support.	**Disallowed**	**547.50**
332	XT - given the time spent the previous day (Item 331) reviewing the supplemental skeleton argument which was 35 pages in length - submit 2 hours should be allowed	Complexity of the appeal, volume of new material i and need to ensure RP's position was accurately and strategically advanced - TR - allowance of 2 hours is arbitrary	Agree excess in light of 331 - **deduct 3 hours**	**4,365**
333	XT - submit 5 hours should be allowed	Not simply referencing the skeleton argument. Involved reviewing comments and proposed amendments, and liaising with Counsel - allowance of 5 hours is arbitrary	Allow 8 hours - **deduct 2.7**	**2,956.5**

Item	Challenge	Reply	Decision	Deduction USD
349	XT - submit 2 hours should be allowed	Not simply involving a further review of the supplemental skeleton argument, covered multiple tasks: reviewing the updated draft, preparing a consolidated index to ensure all referenced documents were correctly incorporated into the appeal bundle, coordinating final adjustments with Counsel before filing, and drafting correspondence to the PP on bundle updates and authorities.	Allow 4 hours - **deduct 2.7**	**2,956.5**
352	As 349 - submit 3 hours should be allowed	Covers reviewing counsel's further draft, providing detailed comments, coordinating with the associate to complete the bundle and ensure accurate referencing, corresponding with counsel on next steps, corresponding with the PP regarding bundle matters, and considering the finalised skeleton prior to filing	Allow 4 hours - **deduct 3.7**	**5,383.50**
353	XT - no time should be allowed for correspondence with Meysan Partners and Jones Day on how to "navigate" the bundle - submit 1 hour should be allowed	Considering bundle involved a systematic accuracy check of the relevant documents in the bundle to ensure that the correct materials were included, properly indexed, and accurately cross-referenced	Agree no time should be allowed for correspondence with Meysan Partners and Jones Day - **deduct 2 hours**	**2,190**
356	Negotiating Counsel's fees is an overhead expense	Time reasonably spent negotiating or agreeing counsel's brief fees is properly recoverable as part of the costs of instructing counsel	Agreed - **deduct 2 hours**	**2,910**
366	As 356	As 356	**Deduct 1 hour**	**1,455**
372	XT - submit 1 hour should be allowed	TR for the conducting solicitor MS to claim 2.2 hours for hearing preparation, bundle and logistics, as well as ongoing correspondence with counsel	ND	0
395 and 396	The time spent at Items 389/390 is sufficient to read and consider the CA Judgment	The time spent at Items 389/390 was not sufficient to review and fully digest that CA Judgment, which comprises 92 pages of detailed reasoning and analysis	ND	0
397 - 428	49.6 hours XT. The only necessary work is to prepare the file for electronic transfer, which is an administrative, non-fee earner task in any event, together with the preparation of a suitable letter of instruction. Submit 2 hours should be allowed for ref HBW to prepare any necessary instructions for Bill of Costs preparation and supervise the transfer of the file. Items 423-426 relate to without prejudice settlement proposals relating to costs. Only 10 hours should be allowed for costs consultant	The time entries reflect substantive and necessary tasks in preparing the Bill of Costs for a high-value, complex, multi-firm appeal. The suggestion that this exercise could be completed with a simple administrative file transfer is misguided. RP accept that time incurred in respect of without-prejudice settlement communications should not be included within the Bill of Costs for the purposes of the present detailed assessment. The Bill of Costs accurately reflects the substantive work undertaken.	I note that 83.50 hours of Costs Consultant time was billed for the CFI and only 1 hour of Akin's time totalling USD 20,118.60. The costs in the CA are lower than in the CFI reflecting that the issues were narrower. It is therefore surprising that the costs of preparing the CA Bill should be greater than 3 times those of the CFI Bill. I will therefore allow the Costs Consultant's fees of USD 26,829.56 and 2 hours of Mr Lovatt's time at 1,394 Taking the PP's figure of USD 73,575.21, I will **deduct 43,957.65**	43,957.65
TOTAL				**83,482.41**

OVER-SENIORITY AND CHRONIC UNDER-DELEGATION/EXCESSIVE INTERNAL COMMUNICATION /EXCESSIVE ADMINISTRATIVE WORK

99. It is important to avoid double or even triple counting proposed deductions. For example, it is said that excessive time was spent on Supplementary Skeleton Arguments in the CA; but individual items have been identified under "*Other Specific Points*" (items 223 to 352 - 223, 228, 230, 231, 238, 240, 242, 246, 257, 326, 332, 333, 349, 352) and deductions made. The PP then says there should be an overall reduction for proportionality. Thus, it is said that there should be a reduction for excessive time pursuant to unreasoned figures in the annotated spreadsheets, there should be specific identified and reasoned reductions and then an overall reduction for proportionally.

100. I consider that the first stage offends the principles I set out at paragraph 49 above, in particular it leaves the Court to guess why the time entries are said to be excessive and the basis of what is said to be reasonable. The second stage is what should have been done for all times, and the Court has been able to address each identified item. The Court may have taken proportionally into account when considering the second stage,

but will reconsider the overall recovery in that context bearing in mind what may already have been allowed.

101. As to "*Over-Seniority and Chronic Under-Delegation*" the PP says that the bulk of the work for the Set Aside Application and Appeal Application was undertaken by Grade A fee earners: 68% of the RP's costs of the Set Aside Application and 46% of the RP's costs of the Appeal Application were incurred by Grade A fee earners. It is submitted that the lack of delegation is further demonstrated by the fact that of 198.18 hours were spent on trial preparation for the Set Aside Application, only 15% of that work was delegated to fee earners below Grade B. Junior team members could and should have undertaken the required administrative tasks in respect of the Set Aside Application, such as:

(1) review of the Set Aside Application hearing bundle; and

(2) logistical preparation for the Set Aside Application hearing,

which were in both cases undertaken by one senior (Grade A) fee earner at Akin.

102. The PP request that that the Court assess the RP's costs incurred by Grade A fee earners and make any reductions it considers proportionate. Put in this way it is not possible for the Court to understand what is said in relation to each item or whether it may in fact already have allowed a reduction.

103. "*Excessive Internal Communication*" suffers from the same vice. Additionally, each item will require scrutiny in the light of the issues noted at paragraphs 34 to 38 above.

104. The PP do refer to 72.1 hours they assert should be disallowed by reference to the annotated Bills. However, there is an overlap of 14.3 hours on the CFI Bill and 3.5 hours on the CA Bill with specific items. Thus, there are 17.8 hours or around 25% of asserted reduction that have already been considered.

105. Under "*Excessive Administrative Work*" the PP expressly refer in their Skeleton Argument to CFI Bill items 68, 72 and 79, 459 and 481. Those items have been addressed under "*Other Specific Points*".

106. Reference is made obliquely via footnotes to other items: CA Bill items 223, 232 and 326. All of which are addressed above. Reference was also made in footnote 101 to the CFI Hearing but no item number was given.

107. Again, as to the remaining items, the Court is left to guess the details of the challenge.

108. In the circumstances I am not persuaded that there is sufficient material on which the Court can make an unaided assessment of those items not specifically identified.

BILL PREPARATION ITEMS

109. This has been addressed under "*Other Specific Points*" above.

PROPORTIONALITY/OVERALL COSTS/OVERALL RECOVERY

110. The RP assert that the DIFC Court on average awards successful parties ~85% of their claimed costs when assessed on the standard basis based on the DIFC Courts Assessment of Costs Guide 2017. I agree with the PP that this is no more than a statistical average arrived at by making a calculation in respect of all detailed assessment exercises in the DIFC Courts. In each of those cases, the claimed costs have been assessed on their own merits. Any suggestion that there is any fixed recoverable percentage of costs on assessment in the DIFC Court has been deprecated by the Court of Appeal (*Nael v Niamh* [2024] CA 015 (14 March 2025), [26]).

111. Addressing the criteria under RDC 38.23 the RP submit:

Conduct Before, As Well As During, The Proceedings

(1) The PP perpetrated an egregious fraud against the RP, resulting in an Award exceeding USD 1.6 billion. Instead of honouring the Award, the PP pursued an elaborate yet meritless set-aside claim and, having lost, an even less sustainable appeal. In parallel, in the enforcement proceedings, their persistent non-compliance compelled the Court to make exceptional disclosure and cross-examination orders. They further remain in breach of at least ten DIFC Court orders for the payment of money, with interest continuing to accrue. The pattern is clear: a deliberate strategy of resistance and obstruction at every turn. The PP's conduct during the proceedings further inflated the costs -

(a) In the CFI Proceedings, the PPs sought permission to adduce expert evidence on foreign law, triggering the exchange of expert reports, the preparation of joint reports, and lengthy cross-examination, rather than simply presenting their foreign law arguments by way of submissions;

(b) In the Appeal Proceedings, following a change in lead counsel, the PP's supplementary skeleton introduced new comparative law arguments across six jurisdictions, requiring the RP's legal team to undertake substantial additional research and analysis;

The Amount or Value of Any Money or Property Involved

(2) The sums at stake were substantial;

The Importance of the Matter to All the Parties

(3) Successfully resisting the Set Aside Claim was critical to Iraq Telecom and its shareholders, as the Award represented the recovery of approximately USD 810 million invested in 2011 and subsequently lost through the PP's fraud. The proceedings therefore carried substantial

financial consequences for the RP and their shareholders. Further, the Award was obtained only after three years of hard-fought arbitration, in respect of which Iraq Telecom incurred and was then awarded legal and arbitration costs of *circa* USD 20 million;

Particular Complexity of the Matter or the Difficulty or Novelty of the Questions Raised

(4) Although the Set Aside Claim was ultimately bound to fail on its facts, it raised novel and complex legal questions, including:

(a) The first consideration by a DIFC Court of the existence, scope and application of the Act of State doctrine within the DIFC, and its interplay with UAE public policy.

(b) The scope and effect of UAE public policy concerning evidence obtained illegally abroad and deployed in DIFC-seated arbitration proceedings.

(5) In addition, in the CFI Proceedings, the Court was required to:

(a) Assess the scope and implications of UAE public policy in respect of the admissibility of hearsay evidence.

(b) Determine whether it would offend UAE public policy for an arbitral tribunal to rely on a prior award that had been annulled at its seat.

(6) The Court of Appeal's 92-page judgment further underscores the depth and difficulty of the legal issues involved.

The Skill, Effort, Specialised Knowledge and Responsibility Involved

112. The matter required considerable specialist expertise. Given the novel and intricate nature of the DIFC legal questions, the RP instructed specialist DIFC counsel (Akin) and Leading Counsel with recognised expertise in DIFC jurisprudence. Coordination with UAE and Iraqi law experts necessitated counsel with civil law expertise (Meysan). The skill, effort and responsibility involved fully justify the costs claimed.

113. The RP then address specific points which have been dealt with above and turn to proportionality by phase. I do not consider it is necessary to repeat the detail set out in the RP's Skeleton Argument in this Assessment as it has substantially, if not entirely, already been addressed.

114. The PP argue that the quantum of costs incurred by RP in defending the Applications is extraordinary. For a total of four days in Court they have incurred nearly USD 2.5 million in fees and expenses, with an average monthly run rate over the key period in the Set Aside Application of over 100 hours for the solicitor team (across three separate law firms) alone - in addition to counsel fees of nearly USD 400,000. For a single-day hearing of the Appeal Application before the DIFC Court of Appeal, with identical solicitor and counsel teams on the RP's side, they incurred over USD 1 million, with a run-rate of over 80 hours every month for the solicitor team (again across three separate law firms) in addition to over USD 250,000 in counsel fees.

115. The PP say that the Set Aside Application was contained: at its core, the RP's task involved consideration of the Set Aside Application (which ultimately included just two solicitor witness statements and two expert reports) and the preparation of a single responsive witness statement and a pair of expert reports. While doubtless the Set Aside Application - and the ultimate Appeal Application - considered complex issues of DIFC law, the nature of the Set Aside Application in no way could have merited such extreme expenditure. The primary ground was a focused issue of UAE public policy, with three alternative grounds.

116. As to the parties' conduct, the PP submit that their conduct in other proceedings or the nature of the findings in the underlying arbitral proceedings is entirely irrelevant to the detailed assessment which the Court is to undertake. The reference to conduct in RDC 38.23(1) is conduct within the context of the particular claim or application (i.e., "*the proceedings*"). It does not allow the Court to have regard to conduct in respect of other proceedings, either in the DIFC Courts or elsewhere, let alone to impose a penalty for that conduct (see paragraph 33 above).

117. It must always be borne in mind, say the PP, that the CFI and the Court of Appeal have ordered that assessment of the RP's costs shall be on the standard, not indemnity, basis. The primary purpose of a detailed assessment is to determine whether the costs claimed were reasonably incurred and if so, on the standard basis, whether they were reasonable and proportionate in amount. The purpose is not to engage in an assessment of how likely the paying party is to pay the assessed costs, nor is it to be used as a vehicle to penalise the paying party for the matters which gave rise to the Arbitration or unduly penalise such a party who has "*lost*" (which is inherently the case as part of a costs assessment exercise).

118. The PP in oral submissions described the RP as seeking a "*backdoor indemnity claim*". It is right that the authorities relied upon by the RP in relation to the weight to be given to fraudulent conduct relate to the basis of the assessment, not how account should be taken within the confines of a standard assessment (see paragraph 29 above).

119. The PP say as to the other criteria under RDC 38.23, after repeating their arguments that the issues were really limited in scope, there was over-manning and duplication:

(1) The fact that the Award is valued at USD 1.6 billion is of little relevance. The value of a judgment does not inherently make the procedure or arguments any more complex, time consuming or costly, than would be the case if that judgment was for a much smaller amount. This is explicitly confirmed in RDC 38.24. The extent and complexity of the issues involved in the Applications would not, inherently, have been different if the value of the underlying Award was USD 160 million or USD 16 billion;

(2) The PP do not dispute that the Set Aside Application raised novel and complex issues of law, but this does not justify the excessive amount of time claimed by the RP. A striking example is the claim for over 70 hours of time spent considering the Set Aside Application in circumstances where the PP submit that, prior to the Set Aside Application being filed, they "*already had a basic understanding of the likely set-aside grounds*" (Reply to the CFI POD dated 23 December 2025, page 26). Further, to the extent that the Set Aside Application

involved complex legal issues, those issues were dealt with by experts and framed by the parties in their Skeleton Arguments, the latter of which should have been in large part prepared by Leading/Junior Counsel;

(3) The fact that the hearing of the Appeal Application was listed for two days does not justify the RP's costs. Even still, spending 725 hours in preparing for and attending a two-day appeal hearing is, on any view, an extraordinarily excessive amount of time.

120. In my judgment, while the PP may not have adhered to highest ethical standards in their commercial dealings with the RP, that is irrelevant for immediate purposes. Nor do I consider that the procedural conduct outlined by the RP takes the case out of the norm, hence the orders for assessment on the standard basis. I therefore find that there was no conduct of a kind that should figure in my assessment when considering the issue of proportionality.

121. In contrast, I find that every other metric - amount in dispute, importance, complexity and novelty, skill, effort *etcetera*, points firmly in the other direction. It is unrealistic to suggest that this was not the heaviest of international dispute resolution.

122. I do not consider that the length of time actually spent in Court bears a direct relationship to the time spent in preparation. If anything the relationship may be inverse: longer time spent on preparation may reduce the time spent in Court by enabling the production of more focused and well-researched written submissions.

123. Where doubts have expressly be brought to the Court's attention, I have adhered to the principle of giving the benefit of that doubt to the PP where justified. I am not however willing to speculate on the grounds of mere assertion or to deduct an arbitrary percentage on some convenient but unprincipled basis that receiving parties should only receive some customary proportion of their claim. The deductions I have made do reflect proportionality in respect of the individual items (see especially items 397-428 of the CA Bill). Given the views expressed in this and the preceding paragraphs I am of the view no further deduction for proportionality is appropriate.

INTEREST

124. Simple interest shall accrue at a rate of 9% per annum until the date of payment, in accordance with Practice Direction No. 4 of 2017 on

(1) The CFI Costs from 16 September 2025 (paragraph 56 above); and

(2) On the Court of Appeal Costs from the date of the Order, 16 June 2025.

SUMMARY

125. As noted, I adopt the procedure outlined at paragraph 48 above - the RP shall amend its Bills of Costs in accordance with the Court's findings summarised below and revert to the Court for a final costs certificate under RDC 40.41 not later than **4pm GST on 13 October 2026**:

Paragraph 75 above

(1) 216.24 hours for two London-based, English qualified Meysan solicitors, must be deducted;

(2) I will allow 20 hours of Mr Tarek Badawy's time assisting Mr Ali Al Hashimi;

(3) Meysan shall be limited to 22.6 hours of a Grade B fee earner at GBP 425 per hour for attending hearing;

(4) Jones Day - I will allow Me. Harb at EUR 600 per hour for the same hours;

(5) Both Meysan and Jones Day are allowed 5 hours each at the same rates for liaison with Akin;

(6) All other Meysan and Jones Day costs are disallowed.

Paragraph 88 above

(7) I will allow USD 120,000 in respect of the UAE Law Expert's fees.

Paragraph 95 above

(8) It seems to me that, standing back, 311.11 hours does appear excessive for work on a Skeleton Argument in addition the work of Leading and Junior Counsel - there will be an overall a reduction to 249.80 hours (USD 298,982).

Paragraph 98 above

(9) There will deductions in relation to specific points from:

(a) CFI Bill - USD 29,203.23; and

(b) CA Bill - USD 83,482.41.

INTERIM COSTS CERTIFICATE

126. I shall issue an interim costs certificate under RDC 40.36 in the sum of USD 1,380,508.12 (being USD 2,437,245.80 claimed by the RP less the duction of USD 1,056,737.68 at paragraph 9.2(a) of the PP's Skeleton Argument but without further reductions for proportionality claimed at paragraph 9.2(b)) which will be less than the final outturn figure.

COSTS

127. The parties are to exchange submission on the costs of these assessment proceedings by no later than **4pm GST on 6 October 2026** and may serve any replies thereto by no later than **4pm GST on 13 October 2026**.