

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Almaden Minerals Ltd. and Almadex Minerals Ltd.

v.

United Mexican States

(ICSID Case No. ARB/24/23)

PROCEDURAL ORDER No. 5
on the Parties' Requests for the Production of Documents

Members of the Tribunal

Prof. Luca G. Radicati di Brozolo, President of the Tribunal

Mr. Oscar M. Garibaldi, Arbitrator

Prof. Jorge E. Viñuales, Arbitrator

Secretary of the Tribunal

Ms. Anneliese Fleckenstein

Assistant to the Tribunal

Ms. Lucia Pontremoli

March 11, 2026

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1. This Procedural Order decides on the Parties' requests for the production of documents, submitted along with their respective objections and replies on February 3, 2026 ("**Requests**"), in accordance with the procedural calendar of Procedural Order No. 4, as amended on November 15, 2025, and February 2, 2026.
2. The Tribunal's decisions on each Request are recorded in the Redfern Schedules attached as Annexes A and B to the present Procedural Order and are based on the principles outlined below and in Procedural Order No. 1 ("**PO1**").
3. The Tribunal has decided on each Request by considering all the Parties' arguments and relevant circumstances.
4. As provided in ¶ 16.10 of PO1, the Tribunal has full discretion to decide on the Requests and may be guided, without being bound, by the International Bar Association's Rules on the Taking of Evidence in International Arbitration 2020 ("**IBA Rules**").
5. In accordance with ¶ 16.11 of PO1, the Tribunal's decisions on the Requests have only been summarily reasoned.
6. The Parties should consider that in the decisions on the Requests:
 - "Granted" means that the Tribunal is satisfied that the Request, as it has been clarified or narrowed by the Tribunal, fulfills the applicable legal requirements, and accordingly the Tribunal orders the relevant Party to conduct a reasonable search of the requested documents and to produce them as provided in Section 16 of PO1.
 - "Denied" means that the Tribunal is satisfied that the Request fails to meet one or more of the applicable legal requirements, and accordingly no order is issued in that respect.
7. The Tribunal's decisions on the Requests are procedural in nature and are based on its appreciation of the case at the present stage of the arbitration proceedings. All decisions are without prejudice to any further decision that may be rendered by the Tribunal on the merits of the dispute or on any procedural objection.
8. The Tribunal considers it appropriate to address below two of Respondents' objections that are relevant to a number of Claimants' Requests. These objections concern (i) Claimants' alleged failure to comply with the limit established by PO1 on the number of Requests and (ii) the alleged irrelevance of Claimants' Requests referring to facts, acts or circumstances that occurred prior to the Treaty entry into force or prior to the critical date of December 14, 2020 established therein, due to the Tribunal's alleged lack of jurisdiction *ratione temporis* on such facts.

Claimants' alleged failure to comply with the limit on the number of the Requests established by PO1

9. Respondent asserts that Claimants' Requests are "*contrary to the instructions of the Tribunal and the agreement of the [P]arties contained in [PO1]*", since, at least 19 of such Requests contain "*two or more clearly distinguishable sub-requests*" and would be thus in contrast with PO1, that, in Respondent's view, allows for a maximum of 40 Requests and requires sub-Requests to be

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counted as separate Requests. Therefore, Respondent asks the Tribunal to reduce Claimants' Requests to the maximum number allowed under PO1 and to accept Claimants' first 40 Requests only.¹

10. Claimants oppose Respondent's objection, on the grounds that (i) PO1 does not impose a hard cap on the number of Requests, but merely provides that the Parties "will endeavor" to limit the number of Requests and, in any case, (ii) Claimants' 37 Requests fall below the threshold Mexico invokes, since the sub-Requests to which Respondent refers are "*non-exhaustive list[s] of illustrative examples to aid identification of responsive documents*" and thus do not count as separate sub-Requests.²
11. The Tribunal is not persuaded by Respondent's arguments, since, as Claimants point out, PO1 does not impose a binding limit on the number of Requests. **Respondent's request to reduce the number of Claimants' Requests and consider only the first 40 Requests is thus rejected.**

Respondent's objection concerning the Tribunal jurisdiction ratione temporis

12. Respondent further asserts that Claimants' Requests referring to "*facts, acts, or circumstances that occurred prior to the entry into force of the Treaty (December 30, 2018) or prior to the critical date of December 14, 2020 [...] are not relevant to the resolution of the dispute, in terms of Articles 3.3(b) and 3.7 of the IBA Rules, since the Tribunal lacks jurisdiction ratione temporis on such facts*". Claimants maintain that Respondent's objection misunderstands the distinction between jurisdictional limitations on claims and the scope of permissible discovery.³
13. In the Tribunal's view, Respondent's objection is unfounded. As pointed out by Claimants,⁴ document production requests are not subject to the same temporal limitations as Treaty claims. Specifically, the IBA Rules impose no restriction on the date of the documents that can be requested, provided that such documents are relevant to the case and material to its outcome. A document predating the entry into force of the Treaty or the critical date established therein may well be relevant to assessing the legality of Respondent's conduct after the Treaty's entry into force. In other words, the fact that requested documents predate the date of the entry into force of the Treaty or the Treaty's critical date does not render those documents irrelevant or outside the Tribunal's jurisdiction. **Respondent's objection is thus rejected.**

14. For the reasons set out above and in Annexes A and B to this Procedural Order, the Tribunal:

¹ Claimants' Redfern Schedule, *Objection of the United Mexican States to the Claimants' Request for Production of Documents*, ¶¶ 37-38, 41.

² Claimants' Redfern Schedule, *The Claimants' Reply to the Respondent's Introduction and General Objections*, ¶¶ 26-29, 31-32.

³ See Mexico's Objections to Claimants' Requests Nos., A-1, B-1, C-1, C-2, C-3, C-5, D-5, H-1 and H-2 and Claimants' replies thereto.

⁴ Claimants' replies to Respondent's objections to Claimants' Requests Nos., A-1, B-1, C-1, C-2, C-3, C-5, D-5, H-1 and H-2.

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- a) **orders** each Party to produce the ordered documents, as specified in the Tribunal's orders made in Annexes A and B, **by March 25, 2026**;
- b) **orders** each Party to submit, **by the same day**, a privilege log in the format of Annex C, as specified in the Tribunal's orders made in Annexes A and B;
- c) **invites** each Party to indicate **by March 18, 2026** when it reasonably expects to be able to produce the documents that it voluntarily accepted to produce, as specified in the Tribunal's orders made in Annexes A and B.

[Signed]

Prof. Luca G. Radicati di Brozolo
President of the Tribunal
Date: March 11, 2026

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ANNEX C

Request No. [•]	
Document/Category of documents	
Date	
Author(s)	
Recipient(s)	
Content	
Legal basis that justifies objection to production	
Application of the legal basis to the present case	