

PCA Case No. 2016-39

**IN THE MATTER OF AN ARBITRATION UNDER THE AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA FOR THE
PROMOTION AND PROTECTION OF INVESTMENTS, SIGNED ON 24 MAY 1988**

- and -

THE UNCITRAL ARBITRATION RULES

- between -

GLENCORE FINANCE (BERMUDA) LTD

(the “Claimant”)

- and -

THE PLURINATIONAL STATE OF BOLIVIA

(the “Respondent”, and together with the Claimant, the “Parties”)

PROCEDURAL ORDER NO. 9

Tribunal

Prof. Ricardo Ramírez Hernández (Presiding Arbitrator)
Prof. John Y. Gotanda
Prof. Philippe Sands

30 September 2019

I. PROCEDURAL BACKGROUND

1. On 23 August 2019, pursuant to the procedural calendar for the quantum phase established in Procedural Order No. 7, the Parties exchanged their document production requests in the form of a Redfern Schedule.
2. On 6 September 2019, the Parties exchanged their objections to document production requests.
3. On 20 September 2019, the Parties simultaneously exchanged their replies to objections to document production and submitted their reasoned applications for an order from the Tribunal on document production.


II. ANALYSIS OF THE TRIBUNAL

4. In accordance with paragraph 5.2.6 of Procedural Order No. 1, the Tribunal shall rule on any application for document production, and may for this purpose refer to the *IBA Rules on the Taking of Evidence in International Arbitration 2010* (the “**IBA Rules**”). Likewise, pursuant to paragraph 6.1 of Procedural Order No. 1, the Tribunal may generally use the IBA Rules as an additional guideline when considering matters of evidence.
5. In accordance with paragraph 5.5 of Procedural Order No. 1, should a Party fail to produce documents as ordered by the Tribunal, the Tribunal may draw the inferences it deems appropriate in relation to the documents not produced.

III. DECISION

6. In light of the above, having considered each document production request and having taken into account the comments submitted by the Parties and other relevant circumstances, the Tribunal decides:
 - a) to grant, pursuant to the terms of this Procedural Order, the Claimant’s document production requests no.: 1, 2, 3, 4, 5, 6, and 7; and the Respondent’s document production requests no.: 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 41. According to the procedural calendar established in Procedural Order No. 7, the Parties shall have until **14 October 2019** to produce these documents to each other; and
 - b) to deny all remaining document production requests.

7. The Tribunal's decisions on each particular document production request are recorded in the enclosed Redfern Schedules, which constitute **Annex 1** and **Annex 2**, and are an integral part of the present Procedural Order.
8. Should a Party wish to assert the privileged character of any responsive documents, the Tribunal orders that such Party shall file by **14 October 2019** a privilege log identifying the responsive document, its date, and the basis for the privilege asserted.
9. The above decision to deny the remaining document production requests is without prejudice to the Tribunal's right to demand that any of such documents be produced in the future if necessary.



Prof. Ricardo Ramírez Hernández
(Presiding Arbitrator)

On behalf of the Tribunal