

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. 10

Tribunal

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

20 January 2020

I. PROCEDURAL BACKGROUND

1. On 30 September 2019, the Tribunal issued Procedural Order No. 9, ruling on the Parties' respective requests on document production. In that decision, the Tribunal granted the Claimant's document production Request No. 6 and ordered the Respondent to produce:

[d]ocuments showing the gross quantities and the quality of all tin concentrates produced in Bolivia between 2007 and 2017 that were used as the basis for the tin production statistics reported in Chart No. III.1 of the *Dossier Estadísticas del Sector Minero Metalúrgico 1980-2017* published by the Ministry of Mining.¹

2. On 8 January 2020, the Claimant requested the Tribunal to

order Bolivia to complete its 14 October 2019 production by producing: (i) the same information regarding the production of concentrates at the Colquiri Mine for the period 2014-2017 as it has produced for the year 2013, or alternatively confirm that such data does not exist; and (ii) documents that show the amount of concentrates delivered to the Vinto Tin Smelter each year in the period 2007-2017, or alternatively confirm that this information does not exist.²

3. On 13 January 2020, the Respondent provided its views on the Claimant's letter and requested the Tribunal to dismiss the Claimant's request.

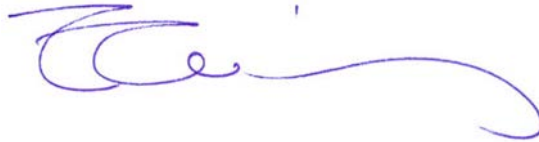
II. DECISION

4. Pursuant to the Tribunal's decision in Procedural Order No. 9 to grant the above-mentioned request, the Respondent is under an obligation to produce to the Claimant all documents in its possession, custody or control which are responsive to the Claimant's document production Request No. 6. That request, however, was limited to documents "that were used as the basis for the tin production statistics reported in Chart No. III.1 of the *Dossier Estadísticas del Sector Minero Metalúrgico 1980-2017* published by the Ministry of Mining." The Claimant has not explained on what basis it asserts that the additional documents it requests are related to the chart published by the Ministry of Mining.

¹ See Annex 1 to Procedural Order No. 9, p. xxxv [footnote omitted].

² Claimant's letter to the Tribunal dated 8 January 2020, p. 2.

5. Therefore, taking into account the Respondent's representation that, "[i]n its 14 October 2019 document production, Bolivia produced all the documents responsive to Request No. 6",³ the Tribunal dismisses the Claimant's request.
6. Nevertheless, the Tribunal recalls that, in accordance with paragraph 5.5 of Procedural Order No. 1, should the Tribunal find that the Respondent has failed to produce documents as ordered by the Tribunal, the Tribunal may draw the inferences it deems appropriate in relation to the documents not produced.



Prof. Ricardo Ramírez Hernández
(Presiding Arbitrator)

On behalf of the Tribunal

³ Respondent's letter to the Tribunal dated 13 January 2020, p. 2.