

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

B-Mex, LLC and others

v.

United Mexican States

(ICSID Case No. ARB(AF)/16/3)

PROCEDURAL ORDER NO. 17

Members of the Tribunal

Dr. Gaëtan Verhoosel, President
Prof. Gary Born, Arbitrator
Prof. Raúl Emilio Vinuesa, Arbitrator

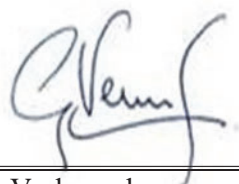
Secretary of the Tribunal

Ms. Natalí Sequeira, ICSID

9 November 2021

1. The Tribunal refers to Procedural Order No. 13 dated 28 May 2021 (**PO13**), Procedural Order No. 16 dated 15 September 2021 (**PO16**), the Tribunal's directions of 23 September 2021, and the updated report by the Privilege Expert dated 29 October 2021 (the **Privilege Expert Report**) in relation to the First and Second Privilege/Confidentiality Logs submitted by the Claimants.
2. The purpose of the Privilege Expert Report was to assist the Tribunal in assessing (i) the merits of privilege/confidentiality claims by the QE Claimants over certain documents for which the QE Claimants and Mr. Taylor had offered conflicting descriptions in the privilege logs and (ii) the appropriateness of redactions made by the QE Claimants and contested by another Party.
3. The Tribunal has, as it must, subjected the Privilege Expert Report to critical scrutiny. Having done so, the Tribunal is satisfied that the observations and findings set out in the Privilege Expert Report are clear and warrant no further inquiries of the Privilege Expert by the Tribunal.
4. In the attached Annex A, the Tribunal sets out its rulings in respect of each of the documents and redactions that were referred to the Privilege Expert. The Tribunal's rulings in PO13 and PO16 are deemed supplemented accordingly.
5. Where waiver of privilege has been claimed, the Tribunal's ruling decides that claim. In making its rulings in this regard, the Tribunal has taken the view, and has proceeded on the basis, that a Claimant did not waive privilege over a document (or part thereof) by disclosing it either (i) in the AAA Arbitration (see paragraph 11 of PO16) or (ii) with another Claimant or with one or more members of a Claimant.
6. Consistent with the time periods set out in Annex A to Procedural Order No. 15 (**PO15**), the Claimants shall produce to the Respondent all documents ordered to be disclosed by the Tribunal in this Procedural Order No. 17 by 16 November 2021, applying appropriate redactions consistent with the Tribunal's rulings. The time limit for the Claimants' Reply Memorials and all subsequent procedural steps as set out in Annex A to PO15 remain unaltered.

7. Where documents are to be produced subject to appropriate redactions, the Tribunal exhorts the parties to cooperate with one another in good faith in order to bring this disclosure phase to an end without the need for further Tribunal intervention. For the time being, the Tribunal reserves its decision on costs relating to the disclosure phase.



Dr. Gaëtan Verhoosel
On behalf of the Tribunal
Date: 9 November 2021