

**PRESS RELEASE****BILCON OF DELAWARE ET AL V. GOVERNMENT OF CANADA**

THE HAGUE, FEBRUARY 6, 2017

**Public Hearing on Damages**

In the arbitration between Bilcon of Delaware et al. and the Government of Canada, a hearing on damages will be held during the period of February 19-27, 2018. The arbitral proceedings are being conducted pursuant to Chapter Eleven of the North American Free Trade Agreement (NAFTA). The Permanent Court of Arbitration acts as registry in this arbitration.

The hearing will be held in Toronto, Canada at the following venue:

Arbitration Place Toronto  
Bay Adelaide Centre West  
33 Bay Street, Suite 900  
Toronto ON M5H 2R2  
Canada

On February 19, 2018, the Tribunal will hear opening statements by counsel for Bilcon of Delaware et al. and Canada. From February 20 to February 24, 2018, witnesses and experts will be examined. On February 27, 2018, the Tribunal will hear closing statements by counsel for Bilcon and Canada. The Tribunal will not sit on February 25 and February 26, 2018. On each sitting day, the hearing is scheduled from 9:30 a.m. to 1:00 p.m. and from 2:00 p.m. to 5.30 p.m.

The hearing shall be open to the public except when necessary to protect confidential information. While members of the public will not have direct access to the hearing room, they may follow the hearing via live-feed to a designated viewing room at Arbitration Place. Members of the public who wish to obtain access to the viewing room are required to register in advance by sending an e-mail to [wvanbanning@pca-cpa.org](mailto:wvanbanning@pca-cpa.org) by February 15, 2018.

Hearing transcripts and videos will be uploaded to the PCA's Case Repository in due course, after the conclusion of the hearing.

**Background of the Arbitration**

The arbitration was commenced in 2009 by Bilcon of Delaware, a United States corporation, and its shareholders. The Parties' dispute revolves around Bilcon's application to build and operate a quarry at Digby Neck, Nova Scotia. Following an environmental assessment, the Government of Nova Scotia and the federal Government of Canada denied the application.

In a 2015 Award on Jurisdiction and Liability, the Tribunal unanimously decided that it had jurisdiction only insofar as Bilcon of Delaware et al. based their claims on events occurring on or after 17 June 2005. The Tribunal further decided, by majority, that Canada had breached certain obligations under NAFTA Chapter Eleven, in particular the obligation to accord treatment in accordance with international law, including fair and equitable treatment and full protection and security (Article 1105) and the obligation to accord treatment no less favorable than that it has accorded, in like circumstances, to investments of its own investors (Article 1102).

The Parties subsequently submitted two rounds of written pleadings concerning the amount of compensation owed to Bilcon of Delaware and its shareholders, accompanied by numerous witness statements, expert reports, fact exhibits and legal authorities. At the forthcoming hearing, the Parties will have an opportunity to make presentations to the Tribunal in respect of these questions and cross-examine witnesses and experts presented by the other side.

The Tribunal is composed of Judge Bruno Simma (President), Professor Donald McRae and Professor Bryan Schwartz.

Further information about the case, the Tribunal's orders and decisions, the Parties' written submissions, and video recordings of the hearing on jurisdiction and liability are available on the PCA's Case Repository at <http://www.pcacases.com/web/view/50>.

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### **Background on the Permanent Court of Arbitration**

The Permanent Court of Arbitration is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 121 Contracting Parties. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding, and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties. The PCA's International Bureau is currently administering four interstate disputes, 84 investor-State arbitrations, and 46 cases arising under contracts involving a State or other public entity. More information about the PCA can be found at [www.pca-cpa.org](http://www.pca-cpa.org).

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