INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

BSG Resources Limited (In Administration), BSG Resources (Guinea) Limited and BSG Resources (Guinea) SARL

v.

Republic of Guinea

(ICSID Case No. ARB/14/22)

PROCEDURAL ORDER No. 19

Objections to Publication

Professor Gabrielle Kaufmann-Kohler, President of the Tribunal Professor Albert Jan van den Berg, Arbitrator Professor Pierre Mayer, Arbitrator

Secretary of the Tribunal Mr. Benjamin Garel

Assistant to the Tribunal Dr. Magnus Jesko Langer

Procedural Order No. 19

- 1. The Tribunal refers to the Claimants' email dated 30 July 2018, to the accompanying Transparency Table, relating to the objections to the publication of certain information for which protection is requested under Articles 7(2)(a) and (c) of the UNCITRAL Rules on Transparency, Article 15 of Procedural Order No. 2 dated 17 September 2015 and Article C(c) of Procedural Order No. 4 of 25 November 2015. The Tribunal also refers to the Claimants' email dated 31 July 2018 attaching color-redacted versions of the Claimants' post-hearing briefs.
- 2. The Tribunal further refers to the Respondent's email dated 31 July 2018, to the accompanying Transparency Table relating to the objections to the publication of certain confidential or protected information for which it requests protection under Articles 7(2)(a) and (c) of the UNCITRAL Rules on Transparency, Article 15 of Procedural Order No. 2 dated 17 September 2015 and Article C(c) of Procedural Order No. 4 of 25 November 2015.
- 3. This order sets out the applicable legal framework (A), the Tribunal's determination for each category of documents sought to be protected (B), and directions for the next procedural steps (C).

A. Legal framework

- 4. The Parties have agreed to the application of the Transparency Rules as set out and adapted in Procedural Order No. 2 ("PO2"). Accordingly, the Parties have agreed to make available to the public the documents listed in paragraph 12(iii) of PO2, subject to the exceptions to transparency provided in Article 7 of the Transparency Rules.
- 5. Where there is a dispute on whether a certain document or category of documents is confidential or otherwise protected, the Tribunal will make its determination in application of the standards set out in Article 7 of the Transparency Rules. In this context, Article 1(4) of the Transparency Rules specifies that, in the exercise of its discretion, the Tribunal must take into account the public interest in transparency as well as the Parties' interest in a fair and efficient resolution of their dispute. Further, according to Article

Procedural Order No. 19

1(6) of the Transparency Rules, the Tribunal must ensure that the transparency objectives prevail in the face of any conduct having the effect of undermining such objectives.

B. Determinations

- 6. The Tribunal's determinations concerning the Claimants' Transparency Table are set out in Annex 1 and those regarding the Respondent's Transparency Table are found in Annex 2.
- 7. In this context, the Tribunal notes that there are a number of new exhibits recently added to the record by the Parties with leave from the Tribunal, which originate from the ongoing investigations of the Swiss authorities. While not specifically requested by either Party, the Tribunal decides that references to these exhibits shall be redacted to be consistent with its prior procedural orders (in particular, paragraph 6(b) of Procedural Order No. 4).

C. Order

(a) Exhibits not for publication

8. The following exhibits shall not be published: Exhibits C-0364, C-0365, C-0366, R-594, R-595, R-596, R-597, R-598 and R-599.

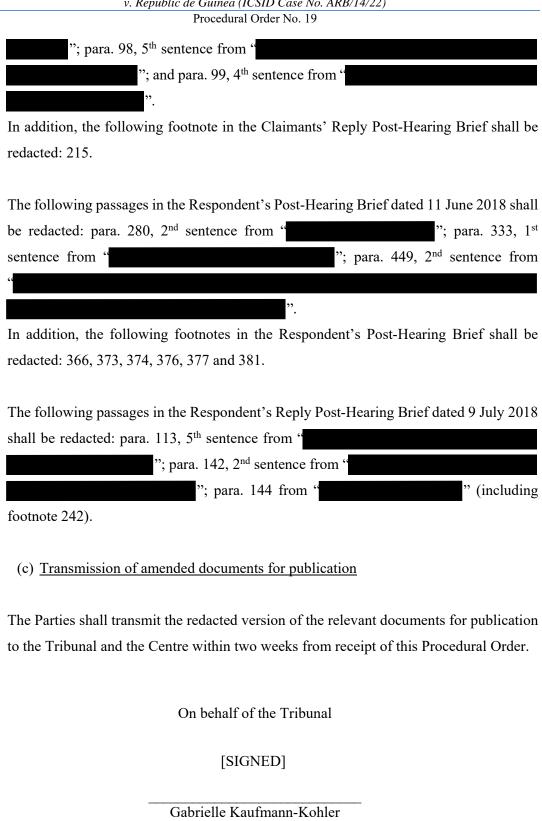
(b) Redaction of submissions

- The following passages in the Claimants' Post-Hearing Brief dated 11 June 2018 shall be redacted: the title of section VI, 6.3, viii.
 In addition, the following footnote in the Claimants' Post-Hearing Brief shall be redacted: 385.
- 10. The following passages in the Claimants' Reply Post-Hearing Brief dated 9 July 2018 shall be redacted: para. 98, 2nd sentence from "

11.

12.

13.



President of the Tribunal Date: 15 August 2018