

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. 23

Members of the Tribunal

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

Secretary of the Tribunal

Ms. Natalí Sequeira, ICSID

29 August 2022

1. The parties agreed at the end of the hearing that they would submit corrected transcripts by 29 August 2022 (i.e. 45 days) and that they would file their post-hearing briefs (*PHBs*) within two months from that date, i.e. by 31 October 2022.
2. The Tribunal indicated at the end of the hearing that it would provide direction to the parties as regards the format and contents of the PHBs, in the form of a decision-making tree. Accordingly, the Tribunal has drawn up the document in Annex A. The parties are directed to adopt that template for their PHBs, subject to the following specifications:
 - a. While the parties are to address all the issues covered by Annex A, this should not be taken as an indication that the Tribunal has already determined it must address all those issues—it has not. Conversely, the parties are not precluded from addressing other issues not covered by Annex A should they wish to do so. In that case, they are to address any such other issues in a separate section at the end of their PHBs.
 - b. At the end of the hearing the parties indicated their agreement to limit the PHBs to 100 pages. Should the parties consider it necessary to revisit that page limit due to the format of Annex A, the Tribunal will consider any such (ideally joint) request.
 - c. As the template in Annex A makes clear, for each issue identified by Annex A, the parties are to (i) briefly state in the first column their assertions of fact and/or law relevant to each such issue and (ii) provide in the second column the pin-cites to the evidential record in support of each assertion.
 - d. As regards the first column, the Tribunal is not looking for a repetition of extensive narratives contained in the pre-hearing submissions—which in the Tribunal’s view would be both inefficient and ineffective—but rather an English skeleton-like concise enumeration of the key assertions of fact and/or law. The focus of the PHBs is on the evidence to be identified in the second column.
 - e. As regards the second column, while the focus should be on the hearing transcripts, the parties are not precluded from also pin-citing relevant paragraphs from exhibits, witness statements and expert reports. If it is possible to hyperlink the pin-cites without incurring excessive costs, the Tribunal certainly welcomes but will not require that.



On behalf of the Tribunal
Dr. Gaëtan Verhoosel QC
President of the Tribunal
Date: 29 August 2022

Attachment: Annex A