

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**B-Mex, LLC and others**  
**v.**  
**United Mexican States**  
**(ICSID Case No. ARB(AF)/16/3)**

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**PROCEDURAL ORDER NO. 4**

***Members of the Tribunal***

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

***Secretary of the Tribunal***

Ms. Natalí Sequeira, ICSID

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29 May 2018

In accordance with Section 21.1 of Procedural Order No. 1 and Section 7.1 of Procedural Order No. 3, the Tribunal invites the parties to submit post-hearing briefs on jurisdiction in lieu of oral closings in accordance with the directions set out at (A) below.

In addition, the Tribunal also invites the parties to file statements on costs relating to this jurisdictional phase in accordance with the directions set out at (B) below.

#### **A. Post-Hearing Briefs on Jurisdiction**

1. Date. The parties shall file simultaneously their post-hearing briefs on jurisdiction within 30 days from either the submission by the parties to the Tribunal of the agreed corrected hearing transcripts or their receipt of the Tribunal's written questions, whichever is later. There shall be no rebuttal submissions.

2. Scope. The parties' post-hearing briefs shall be limited to (a) a summation of the evidence relevant to the parties' contentions on jurisdiction, with a focus on the evidence taken at the hearing on jurisdiction, and (b) their answers to the written questions by the Tribunal. The parties shall *not* adduce any new evidence. New legal authorities shall only be admitted insofar as they are proffered in support of a party's response to a written question from the Tribunal and pertain to an issue of international law.

3. Page limit. The parties' post-hearing briefs on jurisdiction shall not exceed 60 pages, using Times New Roman, font 12, normal margins, and 1.5 line spacing.

4. Format. The parties' post-hearing briefs shall follow a skeleton format, stating their respective contentions and identifying the relevant citations to the witness statements, expert reports, exhibits, legal authorities and/or hearing transcripts relied upon in support of each such contention. Hyperlinks to the record are neither required nor prohibited.

5. Structure. The parties shall organize their briefs following this structure: (a) alleged failure by all Claimants to consent to arbitration in accordance with Article 1121 of NAFTA; (b) alleged failure by the Additional Claimants to engage Respondent's consent to arbitration under Article 1122 of NAFTA; and (c) alleged lack of standing of Claimants to pursue claims on behalf of the Mexican Companies under Article 1117 of NAFTA. The Tribunal expects that (c) will take up a larger portion of the parties' briefs than either (a) or (b).

#### **B. Statements on Costs**

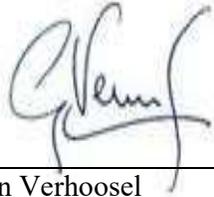
1. Date. The parties shall file simultaneously their statements on costs within 45 days from the filing of their post-hearing briefs on jurisdiction.

2. Scope. The parties' statements on costs shall contain a break-down of the (a) attorney fees, (b) expert fees, (c) share of advance on arbitration costs, and (d) arbitration-related disbursements incurred by each party in connection with the jurisdictional phase of this

proceeding. The parties' statement on costs shall not contain argument as regards the allocation of costs.

3. Evidence. The parties' statements on costs shall be accompanied by copies of the invoices from their legal counsel and experts, *excluding* any supporting time narratives. Subject to any disputes as regards the invoiced amounts, no additional supporting evidence is required.

On behalf of the Tribunal,



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Dr. Gaëtan Verhoosel  
President of the Tribunal  
Date: 29 May 2018