

**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. 10**

***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

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26 March 2021

## **I. PROCEDURAL BACKGROUND**

1. In accordance with the revised procedural timetable dated 16 November 2020, the parties exchanged their requests for production of documents on 31 December 2020.
2. In accordance with Procedural Order No. 9 dated 7 February 2021, the parties exchanged their responses and objections to the requests for production of document on grounds other than privilege or confidentiality on 12 February 2021, and their replies to objections to the document production requests on 26 February 2021.
3. On 26 February 2021, the parties submitted to the Tribunal their outstanding document production requests to which the other parties continued to object on grounds other than privilege or confidentiality, and requested that the Tribunal rule on these requests.

## **II. THE ARBITRAL TRIBUNAL'S DECISION**

4. The Tribunal's ruling on the parties' document production requests are recorded in the Claimants' and Respondent's Redfern schedules, which are appended to this Procedural Order as **Annex I** and **Annex II.A and B** respectively, and which form part of this Procedural Order.
5. In accordance with paragraph 15.1 of Procedural Order No. 1, in making its rulings, the Tribunal has been guided by the IBA Rules on the Taking of Evidence in International Arbitration (2010).
6. Where a request has been granted, it is understood (yet unstated) that the Tribunal considers that the requirements for a proper document production request have been met. Where a request has been denied (wholly or in part), the Tribunal has stated the grounds for such denial.
7. The Tribunal's rulings on the parties' document production requests neither affect the parties' burden of proof nor do they purport to indicate whether such burden has been met by the parties on any issue.

8. Where a requesting party has challenged a representation by the requested party that it has conducted a reasonable and proportionate search for documents responsive to a request, that will be a matter for submissions (including as to whether adverse inferences should be drawn against the requested party) in pre-hearing pleadings and at the hearing.
9. In accordance with paragraphs 9(e) and (f) of Procedural Order No. 9, the Tribunal will address any objections to production on the basis of privilege or confidentiality after the parties have filed their respective privilege/confidentiality logs, if any, with the Tribunal. All of the requests which the Tribunal has granted in this Procedural Order No. 10 (wholly or in part) are subject to the Tribunal's resolution of any such objections on the basis of privilege or confidentiality.



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Dr. Gaëtan Verhoosel  
On behalf of the Tribunal  
Date: 26 March 2021