

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER THE UNITED
MEXICAN STATES – SINGAPORE AGREEMENT ON THE PROMOTION AND
RECIPROCAL PROTECTION OF INVESTMENTS AND
THE UNCITRAL ARBITRATION RULES (2010)**

PACC Offshore Services Holdings Ltd

v.

The United Mexican States

(UNCT/18/5)

PROCEDURAL ORDER NO. 3

Members of the Tribunal

Dr. Andrés Rigo Sureda, Presiding Arbitrator
Prof. W. Michael Reisman, Arbitrator
Prof. Philippe Sands QC, Arbitrator

Secretary of the Tribunal

Ms. Mercedes Cordido-Freytes de Kurowski

January 10, 2019

Whereas,

In Section 26.1 of Procedural Order No. 1, dated November 28, 2018,

- (a) The Tribunal noted that Article 18.4 of the BIT requires to publish the award unless the disputing Parties agree otherwise, and it is otherwise silent on matters of confidentiality.
- (b) The Tribunal further noted that the Parties agreed to the publication of the award, but disagreed on publication of other documents in the arbitration.
- (c) The Tribunal directed the parties to discuss further the issue of confidentiality and publication, and inform the Tribunal of the results of their discussions no later than 15 days from the date of the order, a time-limit extended to January 10, 2019 at the Respondent's request.

On January 8, 2019, the Parties informed the Tribunal that they agreed to the Respondent's proposal on matters of confidentiality set forth in the letter of the Respondent dated December 6, 2018.

Therefore, matters of confidentiality and publication in this proceeding shall be ruled by the agreement of the Parties as set forth below:

1. *"The ICSID Secretariat shall publish in the Centre's website the following documents:*
 - i. *Any decision, provisional or partial award, as well as the final award, issued by the Tribunal.*
 - ii. *Any pleadings submitted by the Parties to the Tribunal during the proceeding (excluding witness statements, expert reports, exhibits or legal authorities), namely: (i) Claimant's notice of arbitration; (ii) Respondent's response to the notice of arbitration; (iii) Claimant's Statement of Claim; (iv) Respondent's Statement of Defence; (v) Claimant's Reply, and (vi) Respondent's Rejoinder.*
2. *To this effect, the following shall be considered confidential information:*
 - i. *Trade secrets;*
 - ii. *Financial, commercial, scientific or technical information of the company considered confidential and that has been treated consistently to be of such character, including, among others, information on prices, costs, strategic and marketing plans, data on the market share or accounting or financial records that have not been disclosed to the public; and*
 - iii. *Privileged information that is protected from disclosure by a legal obligation.*
3. *Neither the parties nor the Tribunal may make available to the public documents that contain information that one of the parties has clearly identified as confidential information. For this purpose, the following procedure shall be followed:*

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- i. *The party submitting to the Tribunal any of the documents identified in numeral 1, shall indicate if said document contains confidential information that must be protected and submit a redacted version within 30 days from the date of its presentation, crossing out the information that must be protected. Once said period has elapsed, without the redacted version having been submitted, it will be understood that the communication presented is of a public nature. Likewise, the other party may identify the information contained in the pleading submitted by the other party that, in its judgment, contains confidential information that must be protected, during the same 30-day period.*
- ii. *In the case of the award, the decisions and the procedural orders issued by the Tribunal, within a period of 30 days from the date of issuance, the parties will identify the information that they consider should be protected and will seek to reach an agreement. about the information that must be eliminated from the redacted version, before the decision or the award is published. After this period, without any of the disputing parties having identified the information susceptible of being protected, it will be understood that the decision or award of the Tribunal is of a public nature; and*
- iii. *Any dispute between the parties regarding the confidentiality of certain information included in any of the documents identified in numeral 1 shall be decided by the Tribunal. The party that submitted the document shall prepare a new redacted version in which the controversial information is deleted, crossed out or included, as the case may be, in accordance with the instructions of the Tribunal.”*

[Signed]

Dr. Andrés Rigo Sureda
President of the Tribunal
Date: January 10, 2019