

30 June 2023

Albert Jan Van Den Berg

President of the Tribunal

Guido Santiago Tawil

Tribunal Member

Sergio Puig

Tribunal Member

International Centre for Settlement of Investment Disputes (ICSID)

RE: Application seeking authorization for Mr. Quetzal Tzab González, in representation of communities from Playa del Carmen, Quintana Roo, Mexico, to act as *amicus curiae* in Arbitration proceedings Legacy Vulcan, LLC v. United Mexican States (ICSID Case No. ARB/19/1)

Dear Members of the Arbitral Tribunal, Dear Secretary of the Tribunal,

Members of communities from Playa del Carmen, Quintana Roo, represented by Mr. Quetzal Tzab González hereby respectfully submit this application for leave to file a non-disputing party submission (*amicus curiae*) (the "Application") in the arbitration case Legacy Vulcan, LLC v. United Mexican States (ICSID Case No. ARB/19/1)

The community is an association of inhabitants incorporated voluntarily to file a class action against Legacy Vulcan in front of Mexican federal judges for the violation of human rights provoked by their mine Calica (or Sac-Tun) at Playa del Carmen, México. The community is legally represented in front of the Mexican judicial authorities by Mr. Quetzal Tzab González, who act as their representator in this procedure.

The Community has an interest in the present arbitration since the mining activities conducted by Legacy Vulcan's mine are located close to the area where the communities live, and we have obtained scientific evidence that proves that the water and the environment our families depend on, has been seriously contaminated, so our families' constitutional right to a sound environment has been violated. Because the Community has specific knowledge regarding the water use by the inhabitants of the region, and is a witness to the impact that the SAC-TUN or Calica mine has had so far, as well as the medical and environmental consequences that such a project would have in the future, the Community is in a unique position to provide the Tribunal with a relevant perspective that is different from that of the disputing parties.

Quetzal Tzab González is an indigenous representative, nominated by the community to represent them in a class action filed in front of 8th Federal District Judge at Cancún, Quintana Roo. As it will be demonstrated, the Tribunal has recognized Mr. Tzab as a legitim representative of the community, in terms of the Civil Federal Code. (Código federal de procedimientos civiles).

No member of the community comprising the proposed *amici* nor its representator has received any financial support or support of any other kind in relation to this Application and Submission, or regarding any future participation in this arbitration. Neither one is directly nor indirectly affiliated with any disputing party.

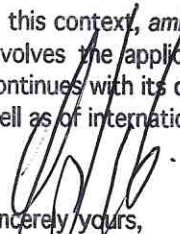
Amici's Submission consists of the original class action filed in front of the Mexican federal judicial authorities and covers several factual and legal matters that fall within the scope of the dispute and is been presented solely to assist the Tribunal in reaching its decision in the case at hand. *Amici* specifically present, throughout

and along the class action presented, the factual and legal elements of particular importance to determine whether the decision of the United Mexican States (the "**Mexican State**") to closure the Calica Sac-Tun mine is justified by the environmental impact that the project represents or whether, to the contrary, such a decision amounts to a breach of NAFTA.

In this context, *amici* consider that the factual and legal elements presented in our original class action will assist the Tribunal in reaching its decision. In particular, the factual and legal elements presented are of particular relevance in assessing whether or not the contentious measure is justified in the given context. In this regard, *amici* consider that the Mexican State had an obligation to close the mine due to the negative impact it poses both to the wild life of the Yucatan Peninsula, and to the population.

Additionally, *amici* emphasize that the the Rio Declaration on Environment and Development (the "**Rio Declaration**"), the International Covenant on Economic, Social and Cultural Rights ("**ICESCR**"), the American Convention on Human Rights ("**ACHR**") and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the "**Protocol of San Salvador**") are all part of both (i) the rules of international law applicable to the dispute and (ii) the corpus of rules of particular relevance in interpreting NAFTA.

In this context, *amici* consider that the Mexican State's decision is fully supported by international law and involves the application of international human rights law. In contrast, *amici* consider that if the mine continues with its operations, such a decision will result in a violation of international environmental law, as well as of international human rights law.



Sincerely yours,

Quetzal Tzab González

On behalf of the communities of Playa del Carmen