

**IN THE MATTER OF AN ARBITRATION UNDER THE
NORTH AMERICAN FREE TRADE AGREEMENT**

- and -

**THE ARBITRATION RULES OF THE
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (1976)**

- between -

Alicia Grace; Ampex Retirement Master Trust; Apple Oaks Partners, LLC; Brentwood Associates Private Equity Profit Sharing Plan; Cambria Ventures, LLC; Carlos Williamson-Nasi in his own right and on behalf of Axis Services, Axis Holding, Clue and F. 305952; Carolyn Grace Baring; Diana Grace Beard; Floradale Partners, LLC; Frederick Grace; Frederick J. Warren; Frederick J. Warren IRA; Gary Olson; Genevieve T. Irwin; Genevieve T. Irwin 2002 Trust; Gerald L. Parsky; Gerald L. Parsky IRA; John N. Irwin III; José Antonio Cañedo-White in his own right and on behalf of Axis Services, Axis Holding and F. 305952; Nicholas Grace; Oliver Grace III; ON5 Investments, LLC; Rainbow Fund, L.P.; Robert M. Witt; Robert M. Witt IRA; Vista Pros, LLC; Virginia Grace

Claimants

v.

The United Mexican States

Respondent

PROCEDURAL ORDER NO. 29

**ON THE PARTIES' REQUEST TO PROTECT INFORMATION IN THE POST-
HEARING BRIEFS**

Tribunal

Prof. Diego P. Fernández Arroyo, President
Mr. Andrés Jana Linetzky, Arbitrator
Mr. Gabriel Bottini, Arbitrator

Secretary of the Tribunal

Ms. Patricia Rodríguez Martín

21 November 2022

I. Procedural Background

1. On September 9, 2022, the Parties filed their respective Post-Hearing Briefs (the “**PHBs**”).
2. On September 30, 2022, the Parties filed their respective transparency schedules regarding their own PHBs.
3. On October 3, 2022, the Tribunal sent a letter to the Parties confirming that – despite the fact that Procedural Order No. 3 does not expressly provide for the publication of the PHBs – their publication is consistent with the transparency policy followed in the present case and with the Parties’ own conduct, and invited the Parties to object the redactions proposed by the other party by no later than October 21, 2022, in accordance with the procedure established in § 5 of Procedural Order No. 3.
4. On October 21, 2022, the Parties filed: (1) their respective objections to the other Party’s proposed redactions to their own pleadings; and (2) their proposed redactions to the other Party’s submissions.
5. On October 24, 2022, the Tribunal invited the Parties to object the other Party’s proposed redactions to the other Party’s brief.
6. On November 4, 2022, the Parties filed their objections to the other Party’s proposed redactions to the other Party’s brief.

II. Applicable Regulation

7. This proceeding is subject to: (i) the NAFTA, (ii) the UNCITRAL Arbitration Rules of 1976 (the “**Arbitration Rules**”); (iii) the procedural rules established in Procedural Order No. 1 and in Procedural Order No. 3 regarding confidentiality and issues related to the disclosure of information to the public.
8. Procedural Order No. 3 provides in the relevant section that:

“4. Confidential information consists of:

(i) Confidential business information includes, but is not limited to:

confidential business communications, trade secrets, confidential research, competitively sensitive technical, marketing, financial, or sales information, business plans, customer and supplier information, or any other information that, if disclosed, could cause significant business injury.

(ii) Information that is protected against being made available to the public under the NAFTA, including information that the Respondent may withhold in accordance with Article 2102 (Essential Security) and Article 2105 (Disclosure of Information);

(iii) Information that is protected against being made available to the public, in the case of information of the Respondent, under the law of the Respondent, and in the case of other information, under any law or rules determined by the Tribunal to be applicable to the disclosure of such information;

(iv) Information that is protected from disclosure by a legal obligation such as a non-disclosure agreement (or similar agreements preventing disclosure or protecting confidentiality) or confidentiality order entered by other courts (for example, protective orders); or

(v) Information the disclosure of which would impede law enforcement.”¹

III. Order

9. The Tribunal decides on the requests and objections of the Parties that appear in the complete versions of the transparency schedules attached to this document as:
 - a. Annex A: Claimants’ Request for Protection of Information regarding their own PHB;

¹ Procedural Order No. 3 of April 26, 2019, § 4.

- b. Annex B: Claimants' Request for Protection of Information regarding the Respondent's PHB;
 - c. Annex C: Respondent's Request for Protection of Information regarding its own PHB;
 - d. Annex D: Respondent's Request for Protection of Information regarding the Claimants' PHB.
10. The above-mentioned Annexes form an integral part of this Procedural Order.
11. The Parties shall submit to ICSID **as soon as possible** new versions of their PHBs, which shall reflect the redactions required by the Tribunal in Annexes A-D.

On behalf of the Tribunal,

[Signed]

Professor Diego P. Fernández Arroyo
President of the Tribunal
Date: 21 November 2022
Seat of the arbitration: Toronto, Canada