

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

-between-

FIRST MAJESTIC SILVER CORP.

(the “Claimant”)

and

THE UNITED MEXICAN STATES

(the “Respondent”)

CONSOLIDATION REQUEST UNDER NAFTA ARTICLE 1126

(ICSID Case No. ARB/21/14 & ICSID Case No. ARB/23/28)

PROCEDURAL ORDER NO. 3

Members of the Consolidation Tribunal

Prof. Albert Jan van den Berg, Presiding Arbitrator

Ms. Tina M. Cicchetti, Arbitrator

Mr. Christian Vidal-León, Arbitrator

Secretary of the Consolidation Tribunal

Ms. Elisa Méndez Bräutigam, Legal Counsel, ICSID

Assistant to the Consolidation Tribunal

Ms. Emily Hay

13 January 2025

I. INTRODUCTION

1. On 5 August 2024, the Consolidation Tribunal issued Procedural Order No. 1 (“**PO1**”).
2. Pursuant to Section 15 of PO1, a Pre-Hearing Organizational Meeting for the organization of the Hearing was held by videoconference between the Consolidation Tribunal and the Parties on 8 January 2025 at 9 am Mexico City / 10 am Washington, D.C. / 4 pm Brussels. The audio recording of the meeting was circulated to the Consolidation Tribunal and the Parties.
3. Participating in the conference were:

Consolidation Tribunal

Professor Albert Jan van den Berg
Ms. Tina Cicchetti
Mr. Christian Vidal-León

Assistant to the Consolidation Tribunal

Ms. Emily Hay

ICSID Secretariat

Ms. Elisa Méndez Bräutigam

Participating on behalf of the Claimant

Mr. Samir Patel, First Majestic Silver Corp.
Ms. Andrea Elvira Elizondo Duran, First Majestic Silver Corp.
Mr. Riyaz Dattu, Arentfox Schiff LLP
Mr. Lee Caplan, Arentfox Schiff LLP
Ms. Maya Cohen, Arentfox Schiff LLP
Ms. Jodi Tai, Arentfox Schiff LLP

Participating on behalf of the Respondent

Mr. Alan Bonfiglio Ríos, Secretaría de Economía, México
Mr. Geovanni Hernández Salvador, Secretaría de Economía, México
Mr. Alejandro Rebollo Ornelas, Secretaría de Economía, México
Mr. Luis Fernando Muñoz Rodríguez, Secretaría de Economía, México
Ms. Laura Mejía Hernández, Secretaría de Economía, México
Mr. Fabián Arturo Trejo Bravo, Secretaría de Economía, México
Ms. Alicia Monserrat Islas Martínez, Secretaría de Economía, México
Mr. Greg Tereposky, Tereposky & DeRose LLP
Mr. Daniel Hohnstein, Tereposky & DeRose LLP
Mr. Alejandro Barragan, Tereposky & DeRose LLP
Mr. Juan Pablo Gomez, Tereposky & DeRose LLP

4. During the conference, the Consolidation Tribunal and the Parties discussed the draft procedural order circulated to them on 6 December 2024, including the Parties' comments dated 3 January 2025, advising the Consolidation Tribunal of the agreements reached and their respective positions where no agreement was reached on the organization of the Hearing.
5. The Consolidation Tribunal has considered the Parties' positions and, in the present Order, sets out the procedural rules upon which the Parties have agreed and/or the Consolidation Tribunal has determined will govern the conduct of the Hearing.

II. ORGANIZATION OF THE HEARING

A. Date and Format of the Hearing

6. The procedural schedule for this proceeding attached as Annex A to PO1 provides that the Hearing will take place on Monday, 27 January 2025, and Tuesday, 28 January 2025.
7. During the Pre-Hearing Organizational Meeting the third previously reserved hearing day of Wednesday, 29 January 2025, was vacated by the Consolidation Tribunal with the agreement of the Parties.
8. The Hearing will be held in person at ICSID's facilities located at World Bank C Building, 1225 Connecticut Ave. N.W., Washington, D.C.
9. In accordance with the Consolidation Tribunal's instructions of 19 November 2024, a Zoom link will be made available for the duration of the Hearing for remote participation. Provided that all members of the Consolidation Tribunal and lead counsel are present in person, other members of the Parties' counsel team and/or their clients may join remotely, at the election of the Parties.¹ The Zoom link will also be made available to any representatives of the Non-Disputing NAFTA Parties that may wish to attend the hearing remotely. The Zoom link will be provided by the ICSID Secretariat in advance of the Hearing.

¹ Consolidation Tribunal's letter to the Parties, 19 November 2024.

10. The Parties shall take all reasonable measures to ensure that no person other than those listed in **Annex B** has access to the Hearing through the Zoom link.

B. Order of Proceedings and Schedule

11. The Hearing will start each day at 9:00 am (Washington, D.C. time) and end each day by 5:00 pm (Washington, D.C. time). There will be two 15-minute breaks during each day, one in the morning and one in the afternoon, as well as a 1-hour lunch break.

12. The order of proceedings and structure of the Hearing will be as indicated in the agenda incorporated as **Annex A** to this Order.

13. The schedule is subject to any changes that the Consolidation Tribunal may deem necessary or appropriate during the Hearing.

C. Time Allocation

14. The total Hearing time will be split evenly between the Parties. Each Party shall be permitted to use the time allocated to it as it deems fit.

15. Time allotted to the Parties does not include breaks nor time used for housekeeping matters.

16. Time taken by the Consolidation Tribunal for its own questions during the Parties' submissions and the answers to those questions shall not be counted against the Parties' time.

17. As discussed during the Pre-Hearing Organizational Meeting, each Party should prepare on the basis that it will have a total of **3 hours** of working time available to it.

18. Each Party will have 2 hours to make its Opening Statement.

19. Each Party will be given 1 hour to make its Closing Statement.

20. The Secretary of the Consolidation Tribunal shall keep a chess clock account of time and advise the Parties of the total daily time used at the end of each Hearing day.

21. The Parties are expected to use the Hearing day efficiently and avoid unnecessary slippage (e.g., delays in returning from breaks). In the event of excess slippage, the Consolidation Tribunal may revisit the length of the sitting day or, in unusual circumstances, the time allocated to the Parties, bearing in mind principles of predictability, equal treatment and a fair opportunity for the Parties to be heard.

III. DOCUMENTS FOR USE AT THE HEARING

(1) Electronic Hearing Bundle

22. There shall be a single Electronic Hearing Bundle (PC and Mac compatible) to be prepared jointly by the Parties. The Electronic Hearing Bundle shall contain all pleadings, exhibits, legal authorities and rulings from the Consolidation Tribunal, with a consolidated hyperlinked index. It shall not contain any document not previously filed.

23. The Electronic Hearing Bundle shall include a joint chronological consolidated list of factual exhibits, identifying in four columns the (i) exhibit number; (ii) date; (iii) description of the exhibit; and (iv) indicate the pleading with which the exhibit was filed. If feasible, the fourth column may also include the footnote or paragraph number where the exhibit is cited in that pleading.

24. The Electronic Hearing Bundle shall be uploaded by the Parties to a designated sub-folder in the BOX filesharing platform **by 14 January 2025**. To ensure operation of the hyperlinked index, the entire Electronic Hearing Bundle shall be housed within one folder and then uploaded to BOX as a single zip file. Should the size of the zip file make the upload to BOX impossible, the Parties shall upload the organized Electronic Hearing Bundle to a designated sub-folder on to the BOX filesharing platform, including a consolidated (non-hyperlinked) index.

25. Prior to the Hearing, the Members of the Consolidation Tribunal, the Assistant to the Consolidation Tribunal, the Secretary of the Consolidation Tribunal and the Parties shall download the Electronic Hearing Bundle from the BOX Case Folder into their own devices to have access to it offline during the Hearing. The court reporters and the interpreters will also be provided a copy of the Electronic Hearing Bundle via the ICSID Secretariat.

26. The Parties shall also distribute the Electronic Hearing Bundle in a USB (i) to be sent by courier **no later than 14 January 2025** directly to Professor van den Berg, to his address indicated at paragraph 3.1 of the Terms of Appointment; and (ii) to Mr. Vidal-León, at the beginning of the Hearing.²

(2) PowerPoint Slides & Demonstrative Exhibits

27. The Parties may use PowerPoint slides and demonstrative exhibits (such as slides, charts, tabulations, etc.) at the Hearing, provided that they contain no new evidence. Each Party shall number its demonstrative exhibits consecutively and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The Party submitting PowerPoint slides or demonstrative exhibits shall provide them in electronic copy to the other Party, the Members of the Consolidation Tribunal, the Assistant to the Consolidation Tribunal, the Tribunal Secretary, the interpreters and court reporters at the Hearing no later than one hour prior to their use.

28. One hour before the presentation in which any PowerPoint slides or demonstrative exhibits will be used, the Parties shall also provide a hard copy to each Member of the Consolidation Tribunal and two hard copies to the other Party's counsel team.

29. Each Party shall upload electronic copies of PowerPoint presentations and demonstrative exhibits to Box by the end of each Hearing day, designating each with the corresponding CD-__ or RD-__ number.

30. The Parties should, insofar as possible, circulate any speaking notes to the interpreters and court reporters prior to the start of each intervention. These notes should be emailed directly to the interpreters and court reporters and shall be treated as confidential information.

² Ms. Cicchetti confirms that she does not require a USB.

IV. RECORDING OF THE HEARING

31. In accordance with Section 17.1 of PO1, the Secretariat shall record the Hearing, and the audio recording will be shared with the Parties, the Consolidation Tribunal and the Assistant to the Consolidation Tribunal at the conclusion of the Hearing.
32. Except for the court reporters that will make their own audio recording of the Hearing, attendees will not otherwise make any audio, video or screenshot record of the Hearing or any part of it.

V. TRANSCRIPTION

33. The provisions of Section 17.2 of PO1 concerning transcription apply.
34. ICSID has made arrangements to have English and Spanish verbatim transcripts available in real-time using Live Note or a similar software during the Hearing.
35. English transcription services will be provided by Ms. Laurie Carlisle and Ms. Diana Burden. Spanish transcription services will be provided by DR-Esteno.
36. The court reporters may seek to clarify the record from time to time during the course of the Hearing.
37. Electronic versions of the transcripts will be provided to the Parties and the Consolidation Tribunal on a same-day basis.
38. In accordance with Section 17.3 of PO1, the Parties shall agree on any corrections to the transcripts within 21 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the court reporters in the transcripts (“revised transcripts”). The Consolidation Tribunal shall decide upon any disagreement between the Parties and any correction adopted by the Consolidation Tribunal shall be entered by the court reporters in the revised transcripts.
39. In the event of conflict between the English and the Spanish transcripts, the transcript in the original language in which the argument was given shall prevail.

VI. INTERPRETATION

40. In accordance with Section 11.7 of PO1, the Hearing will be conducted in Spanish and English with simultaneous interpretation from and into each procedural language.
41. Interpretation services will be provided by Ms. Silvia Colla, Mr. Charles Roberts and Mr. Luis Eduardo Arango.

VII. NON-DISPUTING NAFTA PARTIES

42. The Hearing shall be closed to the public. However, in accordance with Section 20.2 of PO1 provisions shall be made for representatives of the Non-Disputing NAFTA Parties to attend the Hearing upon request.
43. On 2 January 2025, the ICSID Secretariat asked the Non-Disputing NAFTA Parties to inform the Consolidation Tribunal and the Parties by 16 January 2025 whether they were planning to attend the Hearing and, if so, to provide their lists of participants.

VIII. POST-HEARING SUBMISSIONS AND STATEMENTS OF COSTS

44. The question of whether there shall be post-hearing briefs and, if so, the timing and format of such briefs, shall be decided by the Tribunal in consultation with the Parties at the conclusion of the Hearing.
45. The timing and format of the submission of statements of costs (including submissions on the reasonableness of costs) shall be decided by the Tribunal in consultation with the Parties at the conclusion of the Hearing. Any submissions on the allocation of costs should be included in the Parties' oral submissions at the Hearing.

IX. COSTS

46. The costs of the Hearing, including court reporting and interpretation, shall be paid from the case deposit established with ICSID, without prejudice to the decision of the Tribunal as to which Party shall ultimately bear those costs.

47. Each Party shall be responsible for the costs associated with preparation of its Participants (any additional equipment, necessary internet connectivity, etc.), subject to the decision of the Tribunal as to which Party shall ultimately bear those costs.

X. PARTICIPANTS

48. Each Party shall provide its respective List of Hearing Participants **by 9 January 2025** using the format provided in **Annex B**, indicating for each individual whether participation is intended to be in person or virtual.

XI. OTHER MATTERS

49. The logistical details (e.g., confirmation of room number assignments, list of participants, set-up details, details on court reporting and technical support services, internet access, audio-visual equipment and catering orders) will be handled through correspondence directly by the ICSID Secretariat.

On behalf of the Consolidation Tribunal,

[Signed]

Prof. Albert Jan van den Berg
President of the Consolidation Tribunal
Date: 13 January 2025

ANNEX A
Hearing Agenda

Day 1: 27 January 2025

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
9:00 AM	10 min	Housekeeping issues
09:10 AM	2 hours	Respondent's Opening Statement
11:10 AM	15 min	Break
11:25 AM	20 min	Tribunal's Questions
11:45 AM	1 hour	Break
12:45 PM	2 hours	Claimant's Opening Statement
14:45 PM	15 min	Break
15:00 PM	20 min	Tribunal's Questions
15:25 PM	20 min	Housekeeping issues
15:45 PM		End

Day 2: 28 January 2025

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
9:00 AM	10 min	Housekeeping issues
9:10 AM	1 hour	Respondent's Closing Statement
10:10 AM	15 min	Break
10:25 AM	1 hour	Claimant's Closing Statement
11:25 PM	15 min	Final Administrative Remarks
11:40		End

ANNEX B
LIST OF PARTICIPANTS

CONSOLIDATION TRIBUNAL	
Prof. Albert Jan van den Berg	President
Ms. Tina M. Cicchetti	Arbitrator
Mr. Christian Vidal-León	Arbitrator

ICSID SECRETARIAT	
Ms. Elisa Méndez Bräutigam	Secretary of the Consolidation Tribunal

ASSISTANT TO THE CONSOLIDATION TRIBUNAL		
Ms. Emily Hay	Assistant to the Consolidation Tribunal	Remote

CLAIMANT		
Mr./Ms. First Name/ Last Name	Affiliation	In-Person/ Remote
<i>Counsel</i>		

RESPONDENT		
Mr./Ms. First Name/ Last Name	Affiliation	In-Person/ Remote
<i>Counsel</i>		