

**IN THE MATTER OF AN ARBITRATION UNDER THE NORTH AMERICAN FREE
TRADE AGREEMENT AND THE UNITED STATES-MEXICO-CANADA
AGREEMENT**

- and -

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

- between -

Coeur Mining, Inc.

(the “Claimant”)

and

United Mexican States

(the “Respondent”)

ICSID Case No. UNCT/22/1

PROCEDURAL ORDER No. 11

Tribunal

Ms. Sabina Sacco, President
Mr. Pierre Bienvenu, Ad. E.
Prof. Hugo Perezcano Díaz

Secretary of the Tribunal
Ms. Elisa Méndez Bräutigam

9 May 2025

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I. SCOPE OF THIS ORDER

1. This Order addresses certain post-hearing matters that have arisen following the hearing on jurisdiction (the “**Hearing**”), which was held in Washington, D.C. on 31 March and 1 April 2025.
2. This Order does not address the following post-hearing matters, which will be addressed separately:
 - a. The Parties’ further correspondence regarding the Tribunal’s enquiry during the Hearing concerning the Respondent’s search for documents;¹ or
 - b. The correspondence between the Tribunal and the Parties in connection with the Tribunal’s invitation to the Parties and the United States to consider the possibility of entering into a suitable confidentiality agreement enabling them to provide the Tribunal with an unredacted version of the award in *TC Energy Corporation and TransCanada Pipelines Limited v. United States of America*, ICSID Case No. ARB/21/63 (the “*TC Energy*” case), and of the dissenting opinion of Mr. Henri Alvarez in that case.²

II. PROCEDURAL BACKGROUND

3. On 4 April 2025, the Parties received the final edited versions of the English transcript from the court reporters.
4. On 14 April 2025, the Tribunal invited the Parties to confer and attempt to reach an agreement on the following pending post-hearing matters:
 - a. A cut-off date for the Parties to incorporate into the record certain legal authorities on the issue of subsequent agreement/practice by treaty parties discussed during the Hearing, as well as any new legal authorities on this topic on which the Parties wish to rely (“**Cut-Off Date for New Legal Authorities**”);
 - b. Whether to add to the record (i) Mr. Mandell’s email cited in Mr. Alvarez’ dissenting opinion in the case *TC Energy Corporation and TransCanada Pipelines Limited v. United States of America* (ICSID Case No. ARB/21/63), which was recently obtained, and (ii) Canada’s NAFTA Article 1128 Submission in *Access Business Group LLC v. United Mexican States*, ICSID Case No. ARB/23/15 (“**New Evidence**”); and
 - c. The number, sequence, length and timing of the post-hearing briefs, and (ii) the content (including detail), number, sequence and timing of costs submissions, and

¹ The Respondent’s letter of 4 April 2025 (the “Respondent’s Additional Comments on DP”); the Claimant’s email of 5 April 2025 requesting an opportunity to respond; the Tribunal’s email of 7 April 2025; the Claimant’s letter of 11 April 2025 (the “Claimant’s Response to the Respondent’s Additional Comments on DP.”)

² The Tribunal’s letter to the Parties and the United States of 14 April 2025; the United States’ letter of 21 April 2025; the Claimant’s email of 28 April 2025; the Tribunal’s letter of 1 May 2025.

whether they should be accompanied by evidence relating to costs (“**Post-Hearing Submissions**”).

5. On 21 April 2025, the Parties informed the Tribunal that they had reached an agreement on the post-hearing matters listed in para. 4 above.

III. ORDER

6. On the basis of the Procedural Order No. 10 (“**PO10**”) and the Parties’ agreements dated 21 April 2025, the Tribunal hereby issues the following instructions on the pending post-hearing matters.

A. Transcript corrections

7. Pursuant to para. 66(d) of PO10, “[t]he Parties shall endeavor to agree on any corrections to the transcripts within 45 days of the later of the dates of the receipt of the sound recordings and transcripts, whether in the original language or its interpretation.”
8. The Parties received the final edited versions of the English transcripts on 4 April 2025. Accordingly, the Parties shall submit any corrections to the transcripts by **Thursday, 19 May 2025**.
9. Paragraphs 66(d) and (e) of PO10 shall apply to any transcript corrections.

B. Cut-Off Date for New Legal Authorities

10. The Cut-Off Date for the Parties to submit new legal authorities regarding the subsequent agreement/practice of treaty parties is **Friday, 23 May 2025**.
11. The Parties shall coordinate the filing of any new legal authorities to avoid any repetition. The Parties shall name such new legal authorities following the nomenclature established in Annex B of Procedural Order No. 1 and upload any new document to the Box folder for this case.

C. New Evidence

12. The Tribunal takes note of the Parties’ agreement to introduce into the record (i) Mr. Mandell’s email cited in Mr. Alvarez’ dissenting opinion in the case *TC Energy* case, and (ii) Canada’s NAFTA Article 1128 Submission in *Access Business Group LLC v. United Mexican States*, ICSID Case No. ARB/23/15.
13. The Tribunal further takes note of the Parties’ disagreement as to whether Canada’s NDP Submission mentioned in paragraph 6(ii) above serves the purpose of establishing the subsequent agreement of the USMCA Parties.³

³ The Claimant’s email to the Tribunal of 21 April 2025: “The Parties have agreed to allow into the record both (i) the Lauren Mandell email referred to in the Alvarez Dissent, and (ii) the NDP Submissions of the United States and Canada in the *Access Business Group* case. With respect to the latter, Respondent wishes to include them on the record for the purpose of further establishing the subsequent practice in the application of the

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14. In light of the above, the Parties are instructed to file these two documents following the nomenclature in Annex B of Procedural Order No. 1 and upload them to Box.

D. Post-Hearing Submissions

15. There shall be a single round of post-hearing briefs (“PHBs”). The Parties shall file simultaneous PHBs **by Friday, 30 May 2025**.
16. The PHBs shall have a page limit of 75 pages, in Times New Roman font, size 12, 1.5 line spacing, with one-inch margins.
17. The Parties shall file statements of costs (“SOCs”) **by Friday, 13 June 2025**.
18. The SOC’s shall have a page limit of 2 pages, in table format, setting out costs and fees. The SOC’s shall not contain any additional argumentation regarding the allocation of costs.

On behalf of the Tribunal,

[Signed]

Sabina Sacco
President of the Tribunal

Date: 9 May 2025

USMCA that establishes the agreement of the Parties regarding its interpretation. While Claimant does not object to the admission of these documents to the record, it does not accept that this evidence can be used for the purpose of establishing the subsequent agreement of the USMCA Parties (for the same reasons set out in Claimant’s letter to the Tribunal dated 24 March 2025 in respect of Canada’s APMC Submission).”