INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Goldgroup Resources, Inc.
Claimant

v.

United Mexican States
Respondent

(ICSID Case No. ARB/23/4)

PROCEDURAL ORDER NO. 6
Decision on Claimant's request dated 5 September 2025

Members of the Tribunal
Prof. Eduardo Zuleta, President of the Tribunal
Mr. Henri C. Álvarez, Arbitrator
Ms. Jean E. Kalicki, Arbitrator

Secretary of the Tribunal
Ms. Jara Mínguez Almeida

Assistant to the President
Ms. Juana Martínez Quintero

September 23, 2025

I. INTRODUCTION

4. On 5 September 2025, Claimant requested leave from the Tribunal for its damages experts to address during the forthcoming hearing: *"(i) any new points raised by RIóN in its Second RIóN Report; (ii) any new points raised by Respondent in its Rejoinder on the Merits relevant to the Tribunal's evaluation of damages in this case; and (iii) any new factual developments relevant to the Tribunal's evaluation of damages in this case (such as updated information in the market about the San José de Gracia gold mine, and developments in global resource prices, or information of a similar nature) that have arisen, or that may arise, between the date of its economic experts' last report (12 December 2024) and the hearing."*

5. Claimant based its request on Paragraph 19.5 of Procedural Order No. 1.[1]

6. *First,* Claimant submits that in the Rejoinder on the Merits, Respondent's damages expert introduced new arguments, such as (i) that the Ocean Partners Transaction is not a valid indicator of value because that transaction involved "restricted securities"; (ii) that Claimant would not have realized any financial gain from holding shares in DynaResource de Mexico, S.A. de C.V. ("DynaMex") since the revenues from gold mining operations would have gone to DynaResources, Inc. ("DynaUSA"); (iii) that the additional near-surface bulk resources do not constitute an "additional" discovery; and (iv) Respondent's damages expert's new "alternative in-situ approach". According to Claimant, it is fair for it to have an opportunity to address these new points during the hearing.

7. *Second,* Claimant averts that given that the analysis of its damages expert uses an ex-post approach, such analysis considered all relevant information available in the market as of the date of the pertinent report. However, since nearly a year will have passed between the last report and the hearing, it would be helpful for Claimant to bring new relevant information to the Tribunal's attention for its damages assessment, such as updated market data regarding the San José de Gracia gold mine and global resource prices.

8. *Third,* Claimant argues that Respondent in its Rejoinder on the Merits, claimed that (i) the value assigned to the shares Claimant held in DynaMex—allegedly based on the book value of DynaMex—constituted adequate compensation under Article 1110 of NAFTA, and (ii) that "the book value of a company is an accurate accounting of the net worth of a firm." Therefore, Claimant contends that Claimant's experts should have an opportunity during the hearing to address Respondent's mischaracterizations regarding these arguments.

9. Claimant also states that it understands that Respondent's omission to call one of the three Claimant's damage experts (who produced a joint report) was inadvertent. Therefore, Claimant states that it plans for the three experts to provide testimony at the hearing.

10. On 12 September 2025, Respondent replied to Claimant's communication, requesting the Tribunal

[1] *"Exceptionally, upon justified application of a Party no later than 7 days after the date for notification of witnesses called for examination, or as soon as possible after allegedly new developments during the Hearing itself, and with leave from the Tribunal, the expert may include in its presentation new matters arising during the arbitration or from statements of the counterparty's witnesses and experts on which the expert has not had an opportunity to comment before to the extent that those new matters are related to issues addressed by the expert in his or her previous expert report."* (PO1, para 19.5)

to reject Claimant's request.

11. *First,* Respondent states that Claimant's requests do not satisfy the requirements of Paragraph 19.5 of Procedural Order No. 1. According to Respondent, Paragraph 19.5 contains the word "exceptionally," which suggests that there must be exceptional circumstances for an expert to address new matters at the hearing. However, Claimant has not identified any such special circumstances. Respondent also argues that Claimant's requests are vague and open-ended, and that Paragraph 19.5 does not allow for such type of requests.

12. *Second,* Respondent submits that it is not true that the examples provided by Claimant correspond to new arguments raised by Respondent. On the contrary, those arguments are merely counter allegations to submissions previously made by Claimant, specifically: (i) Claimant's damages expert's argument that the stock market for the Ocean Partners transaction was unrestricted; (ii) that, absent any breach, Claimant would have benefited from the additional value derived from the bulk resources; (iii) that damages should take into account recently discovered bulk resources; and (iv) criticisms regarding the transparency of the original method used by Respondent's damages expert. Respondent also argues that the appropriateness of arguments related to valuing DynaMex's shares through a book value assessment is not new, as it was addressed in the Reply on the Merits and in only three pages of the second report from Respondent's damages experts.

13. *Third,* Respondent argues that Paragraph 19.5 does not allow Claimant to introduce new factual evidence, which is what Claimant is trying to do by asking the Tribunal for permission for the damages expert to include updated information about global resource prices and the market for the San José de Gracia gold mine.

14. Respondent does not dispute Claimant's assertion that the three damages experts should testify at the hearing, even though Respondent called only two of them.

II. TRIBUNAL'S ANALYSIS

15. The Tribunal finds that Claimant's request, as submitted, is overly broad. Even though Claimant lists the points that it has identified as new, it states that these points are not exhaustive but rather examples of the new points that it would address in the hearing if and when authorized by the Tribunal. Neither Paragraph 19.5 of Procedural Order No. 1 nor procedural fairness and equality of arms would be observed if the Tribunal were to grant such a general and open-ended request.

16. However, the Tribunal is mindful that given the postponement of the hearing, originally scheduled for September 2025, and the time that has passed since the last submissions of the Claimant's expert reports, some specific updates and clarifications may be required. However, such updates must be limited to specific points and must grant the opposing Party the opportunity to respond.

17. Based on the above, the Tribunal will allow Claimant's experts Andrés Chambouleyron, Santiago Dellepiane, and Andrew Webb ("Chambouleyron/Dellepiane/Webb") to submit a short supplemental report strictly limited to the following points addressed by RIóN M&A, S.C. ("RIóN") in its Second Expert Report ("RIóN's Second Report") submitted with Respondent's Rejoinder:

(a) Paragraph 13 of RIóN's Second Report containing the argument that the Ocean Partners Transaction, on which Claimant's economic experts rely to assess the fair market value of DynaMex, is not an acceptable indicator of value because that transaction involved "restricted" securities;

(b) Paragraph 45 of RIóN's Second Report containing the argument that Claimant would not have received any financial benefit from holding shares in DynaMex because Claimant would not have received the revenues from gold mining operations, which accrued to DynaUSA;

(c) Paragraphs 85-86 of RIóN's Second Report containing the argument that the additional near-surface bulk resources do not represent an "additional" discovery, but instead were a restatement of previous estimates;

(d) Paragraphs 30-34 of RIóN's Second Report containing the alternative "in-situ approach" analysis based on RIóN's own identification of "comparables," which RIóN selected from exploration-stage companies with no reserves;

(e) Updated market information about the San José de Gracia gold mine; and

(f) Updated information on global resource prices.

18. The aforementioned short report shall be submitted no later than 14 October 2025.

19. RIóN may in turn submit a short rebuttal supplemental report specifically limited to the above-mentioned issues by 4 November 2025.

20. The Tribunal will reject any submission by either expert exceeding the limited terms of this Procedural Order.

21. The Parties are not allowed to make additional submissions or present additional arguments together with the limited reports to be submitted by the experts.

22. As regards the alleged mischaracterization by Respondent of the expert report of Chambouleyron/Dellepiane/Webb about the use of the book-value methodology to determine the value of Claimant's shares in DynaMex, the Tribunal considers that to the extent that Claimant's request refers to an alleged mischaracterization, Claimant's damages expert may correct, during the hearing, any such mischaracterization.

23. Claimant's three damages experts may each appear for testimony and examination based on their joint report.

III. DECISION

24. Based on the forgoing, the Arbitral Tribunal decides:

(a) To allow Claimant to submit a short supplemental report **by 14 October 2025**, strictly limited to the issues mentioned in paragraph 17 of this Procedural Order;

(b) To allow Respondent to submit a short supplemental report **by 4 November 2025**, strictly limited to the issues discussed in Claimant's supplemental report; and

(c) To allow Claimant's three damages experts to appear for testimony and examination based on their joint report.

On behalf of the Tribunal,

[signed]

Prof. Eduardo Zuleta
President of the Tribunal
Date: September 23, 2025