DECISION RENDERED ON 22 JULY 2020

Subject:	The Claimant challenged the Presiding Arbitrator (nominated jointly by the two party-nominated arbitrators) pursuant to Article 10.3 of the LCIA Rules 2014.
Outcome:	Rejected
Seat:	Mexico City, Mexico
Governing Law of the Contract:	Mexican law
Summary:	The challenge to the Presiding Arbitrator related to the following procedural decisions by the Tribunal and actions by the Presiding Arbitrator: (i) The Tribunal bifurcated the proceedings; (ii) The Presiding Arbitrator raised *motu proprio* a question concerning the law applicable to the dispute; (iii) The Presiding Arbitrator allegedly prevented the Claimant from raising *"several elements relevant to the case*" without justification, and was hostile to the Claimant's counsel during the hearing; (iv) The Presiding Arbitrator allegedly treated the Claimant's and the Respondent's requests to add new counsel differently, by requesting more information from the Claimant's proposed new counsel; (v) The Tribunal allegedly breached its undertaking regarding the timing for the issuance of the Award; (vi) The Tribunal denied the Claimant's request to stay the proceedings until COVID-19 measures adopted by the Mexican Government were lifted; and (vii) The Tribunal Secretary engaged in *ex parte* communications with the Respondent's counsel. As a result, the Claimant argued that the Arbitrator had not been impartial during the proceedings, had shown animosity against the Claimant, and failed to resolve the dispute expeditiously, in breach of Article 14.4 of the LCIA Rules. The LCIA Court rejected the challenge. As it was not alleged that the decision to bifurcate the proceedings was taken by the Presiding Arbitrator exclusively, but by the Tribunal, it could not be a ground for challenge of the Presiding Arbitrator. In any event, the Tribunal had the right to grant the request for bifurcation or not, after having heard the Parties, which was the case here.

	Under Article 22.1(iii) of the LCIA Rules, tribunals may raise a question on their own volition if they give all parties a chance to provide their views, which was the case here. The Presiding Arbitrator did not act unfairly or with bias when preventing the Claimant's counsel himself from advancing new factual evidence at the hearing, given that the Claimant's counsel was not a factual witness and had not filed any witness statement before the hearing. This was in line with the usual practice in international arbitration and the Tribunal's duty to guarantee compliance with due process and to protect the integrity of the proceedings. If the Claimant had any concerns on how it had been treated during the hearing, it should have raised its concerns at the hearing, or, at least, shortly thereafter, not four months later and after having confirmed at the hearing that: (i) it was fully satisfied by the way the hearing had been conducted; (ii) that it considered it had been given the opportunity to properly raise its case; and that (iii) it thought the Parties had been treated equally. The Presiding Arbitrator had the right to request administrative information the Presiding Arbitrator considered appropriate from the Claimant's proposed new counsel to guarantee the integrity of the proceedings. The queries were not inappropriate or extraordinary in the circumstances. That the Presiding Arbitrator did not make similar queries from the Respondent's proposed new counsel does not cast doubt on the Presiding Arbitrator's impartiality. Contrary to the Claimant's assertions, the Presiding Arbitrator did not undertake that an award would be issued by a certain date but expressed instead a hope that the Tribunal could deliberate before that time. Besides, Article 15.10 of the LCIA Rules does not provide for specific time limits for issuance of an award and, in any event, four months to finalise an award is reasonable. Moreover, there is no reason to put the blame of any alleged delay on the Presiding Arbitrator alone, as opposed to the full Tribunal. There was no breach of equal treatment nor a violation of the Tribunal's obligation not to enter into unofficial *ex parte* correspondence with any party in circumstances where the other Party had also been invited to attend the relevant call but declined with full knowledge of what was at issue. The doubt raised (as to whether the Claimant maintained a certain claim) was a legitimate concern and an indication of the Presiding Arbitrator's diligence, as the Presiding Arbitrator wanted to make sure that all issues raised by the Parties were addressed by the Tribunal, and did not cast doubt on the Presiding Arbitrator's knowledge of the case or capacity to resolve the dispute expeditiously.

LCIA Arbitration No. […]

[…]

(CLAIMANT)

vs/

[…]
(RESPONDENT)

DECISION ON THE CHALLENGE RAISED AGAINST [ARBITRATOR A]

22 JULY 2020

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1. By letter dated 18 June 2020, I have been informed that I had been appointed by the LCIA Court to determine a challenge brought by [the Claimant] ("**Claimant**") against [Arbitrator A], acting as President of the Arbitral Tribunal (the "**Tribunal**") in LCIA Arbitration […] (the "**Arbitration**") opposing Claimant to [the Respondent] ("**Respondent**", and, together with Claimant, the "**Parties**").

I. THE PROCEDURE TO DATE

2. The LCIA Court provided me with the following background information.

3. On 29 November 2018, Claimant initiated the Arbitration pursuant to Clause 30.3 of an agreement […] entered into on 4 September 2015 by the Parties and an additional [Third Party] (the "**Agreement**"). Clause 30.3 of the Agreement is reproduced in full below:

"**30.3. Arbitraje**. Todas las desavenencias que surjan en relación con el presente Contrato, distintas a las controversias que de conformidad con la Cláusula 30.2, deban ser resueltas, serán decididas exclusivamente y definitivamente de conformidad con el Reglamento de Arbitraje de la Corte Internacional de Arbitraje de Londres (London Court of International Arbitration), por 3 (tres) árbitros; uno elegido por cada una de las partes; el tercer árbitro será nombrado por las Partes o por los árbitros ya nombrados y a falta de acuerdo por la Corte Internacional de Arbitraje de Londres (London Court of International Arbitration, en adelante LCIA). Los árbitros preferentemente conocerán derecho mexicano. La sede de arbitraje será la Ciudad de México, Distrito Federal, y se conducirá en el idioma español. La Ley Aplicable al fondo del arbitraje, y por supletoriedad al procedimiento en lo que fuere omiso el Reglamento de Arbitraje de la LCIA, será la estipulada en la Cláusula 30.1. En cuanto al procedimiento, si el Reglamento de la Corte Internacional de Londres es omiso, se aplicarán las Normas que las Partes o, en su defecto, el Tribunal Arbitral, determinen. El Proceso arbitral será confidencial y cualquier Persona que participe en el mismo deberá guardar reserva. La confidencialidad anterior deberá mantenerse siempre y cuando una Autoridad competente no exija la publicidad conforme a la Ley aplicable. Se entiende que el Tribunal Arbitral deberá aceptar como obligatorias las determinaciones –si las hubiere– del Experto respecto de aspectos técnicos o administrativos dentro de los límites del mandato de dicho Experto."

4. The seat of the Arbitration is Mexico City and the language of the Arbitration is Spanish.

5. On 23 April 2019, the LCIA Court appointed the Tribunal, comprised of [Arbitrator B] (co-arbitrator), [Arbitrator C] (co-arbitrator), and [Arbitrator A] (President jointly nominated by the co-arbitrators upon the Parties' agreement).

6. Following the constitution of the Tribunal, the Parties exchanged submissions and the Tribunal issued several procedural directions, including a Procedural Order No. 3 ordering the bifurcation of the proceedings in two parts. I understand from the information provided by the LCIA Court that the first part of the Arbitration was dedicated, broadly, to the question of whether Claimant had a right to

raise claims under the Agreement in circumstances where it entered into a settlement agreement with Respondent in 2018.

7. On 13 December 2019, a hearing took place between the Parties and the Tribunal. The hearing focused on (i) the law applicable to the dispute, (ii) the nature of the 2018 settlement (an act *iure gestionis* or *iuri imperii*) and (iii) the question of the inexistence or nullity of that settlement.

8. On 4 March 2020, the Tribunal informed the Parties that it was currently drafting the award further to the 13 December 2019 hearing.

9. On 17 March 2020, Claimant requested that the proceedings be stayed until the public measures implemented by the Mexican Government to respond to the Covid-19 crisis were lifted. This application was rejected on the same day by the Tribunal.

10. On 15 April 2020, Claimant submitted a challenge to [Arbitrator A] pursuant to Article 10 of the LCIA Rules (the "**Challenge**").

11. On 16 April 2020, [Arbitrator A] provided his comments on the Challenge and confirmed that he would comply with any decision taken by the Parties and the LCIA Court in that respect.

12. On the same day, [Arbitrator A] informed the Parties that the Tribunal members had their last deliberations meeting on 7 April 2020, and that they were reviewing the draft Award.

13. On 17 April 2020, Respondent filed its response, opposing the Challenge.

II. ANALYSIS AND DECISION ON THE CHALLENGE

14. Claimant raises its Challenge on the basis of Article 10 of the LCIA Rules, which sets out the following test:

> "10.1 The LCIA Court may revoke any arbitrator's appointment upon its own initiative, at the written request of all other members of the Arbitral Tribunal or upon a written challenge by any party if: […] (iii) circumstances exist that give rise to justifiable doubts as to that arbitrator's impartiality or independence.
>
> 10.2 The LCIA Court may determine that an arbitrator is unfit to act under Article 10.1 if that arbitrator: (i) acts in deliberate violation of the Arbitration Agreement; (ii) does not act fairly or impartially as between the parties; or (iii) does not conduct or participate in the arbitration with reasonable efficiency, diligence and industry."

15. Claimant also makes reference to Article 14.4 of the LCIA Rules which provides:

"14.4 Under the Arbitration Agreement, the Arbitral Tribunal's general duties at all times during the arbitration shall include:

(i) a duty to act fairly and impartially as between all parties, giving each a reasonable opportunity of putting its case and dealing with that of its opponent(s); and

(ii) a duty to adopt procedures suitable to the circumstances of the arbitration, avoiding unnecessary delay and expense, so as to provide a fair, efficient and expeditious means for the final resolution of the parties' dispute."

16. Claimant argues that [Arbitrator A] has not been impartial during the proceedings, but instead showed a certain animosity against Claimant; and failed to resolve the dispute expeditiously. I address below each and all of the litigious issues raised by Claimant in that regard.

17. First, Claimant takes issue with the Tribunal's decision to bifurcate the proceedings. Claimant does not explain, however, how this decision relates to, or supports, the Challenge raised against [Arbitrator A]. It is not alleged that this decision was taken by [Arbitrator A] on his own. On the contrary, the decision was taken by the three-member Tribunal further to hearing all Parties on that question. If the Tribunal is seized of a request for bifurcation, it has the right to grant it or not, after having heard the Parties, which was the case here. I therefore do not see how the decision taken by the whole Tribunal to bifurcate the proceedings could be a ground for challenge of one of its members under Article 10 of the LCIA Rules. Claimant's objection is therefore unfounded.

18. Second, Claimant argues that during the 13 December 2019 hearing, [Arbitrator A] raised a question *motu proprio*, without a formal request from any party. Claimant explains that [Arbitrator A] asked for the Parties' views on a particular issue concerning the law applicable to the dispute. According to Claimant, if this issue had not been previously raised by the Parties it is because they were in agreement on that point.

19. Under Article 22.1 (iii) of the LCIA Rules, Arbitral Tribunals have the right to raise objections *motu proprio* as long as an opportunity is given to all parties to express their views on that question:

"22.1 The Arbitral Tribunal shall have the power, upon the application of any party or (save for sub-paragraphs (viii), (ix) and (x) below) upon its own initiative, but in either case only after giving the parties a reasonable opportunity to state their views and upon such terms (as to costs and otherwise) as the Arbitral Tribunal may decide: […]

(iii) to conduct such enquiries as may appear to the Arbitral Tribunal to be necessary or expedient, including whether and to what extent the Arbitral Tribunal should itself take the initiative in identifying relevant issues and ascertaining relevant facts and the law(s) or rules of law applicable to the Arbitration Agreement, the arbitration and the merits of the parties' dispute;"

20. Claimant does not allege that it was deprived from the possibility to address the question raised by [Arbitrator A]. As a matter of fact, Claimant admits that the Parties did not consider [Arbitrator A's] question relevant as they were both in agreement that the answer to that question was to be found in Clause 30.1 of the Agreement (concerning the law applicable to the contract). I do not see therefore how Claimant's objection could be a ground for challenge. Particularly, the Claimant has failed to demonstrate the existence of justifiable doubts as to [Arbitrator A's] impartiality or independence pursuant to Articles 10.1(iii) and 10.2(ii) of the LCIA Rules.

21. Third, Claimant argues that during the hearing, [Arbitrator A] restricted the possibility for Claimant's legal representative, [Lawyer X], to raise several elements relevant to the case, and did so without any justification. This objection also seems unfounded. As mentioned by Respondent in its response to the Challenge, [Arbitrator A] did restrict Claimant's legal representative from advancing new factual evidence at the hearing because it had not been filed in the record. The following excerpt from the transcript of the 13 December 2019 hearing accurately relates what actually happened:

"**[Lawyer X]**: En relación al tema del formato del finiquito, por qué existen dos, es muy sencillo.

Durante el proceso de la conclusión de la obra, la Gerencia de Proyectos me entrega a mí personalmente para facilitar el proceso de recabación de firmas, me entrega documentos como convenios, finiquitos y demás, para que trate de recabar las firmas de los demás asociados, única y exclusivamente para eso.

Porque es complejo, ya que los asociados no se encuentran en la Ciudad de México, sino en diferentes partes de la República.

A mí me entrega personalmente esos documentos, como yo traigo los originales, yo les saco una copia II documento, tal como lo entregó, donde viene la firma ya de dos representantes de convenio y todavía, solamente viene la firma de un representante de [la Demandada].

Al no poder obtener las demás firmas y bajo la desesperación del tiempo que ya había transcurrido por parte de la gente de [la Demandada], me dice: "Entrégame los documentos, yo obtengo las demás firmas". Nosotros no habíamos firmado ese finiquito todavía.

Yo regreso los documentos, todo el expediente. Nos citan a firmar el finiquito, porque así fue un acuerdo que se llegó con [la Demandada] , el ingeniero [Y], nos citan a firmar el finiquito el día 5 de septiembre de 2018; el 5 de septiembre nos citan a firmarlo.

Nos presentamos [F], que es representante por parte de [la Demandante], para efectos de todo el tema del contrato, y un servidor para hacer la firma de ese finiquito.

Lo firmamos con fecha y le pusimos 5 de septiembre a la firma. En ese momento se destapa una inconformidad por parte de [la Demandada], dicen: “No tienes que poner esa fecha, tienes que poner la fecha de día del finiquito, que fue el 12 de enero del 2018".

Nosotros no estuvimos de acuerdo en hacer eso, en ese momento se destruye el finiquito en mi presencia, obviamente no hay un video, los únicos testigos éramos el Gerente de Proyecto por parte de la [Demandada] y un servidor e [F], el representante del contrato por parte de [la Demandante] y se vuelve a elaborar el finiquito, dice exactamente lo mismo, exactamente dice lo mismo y se vuelve, la Gerencia de Proyectos vuelve a recabar las firmas, pero lo que sucedió literalmente fue que la [Demandada] destruye el finiquito delante mío con el fin, porque nosotros le pusimos fecha 5 de septiembre, literalmente.

Esto, o sea, perdón…

[Arbitrator A]: Nos puede dar su nombre.

[Lawyer X]: [Lawyer X].

Esto durante esa controversia ese mismo día, el gerente de proyectos de [la Demandada] le comunica al coordinador [Y] de que nosotros firmamos con fecha 5 de septiembre, a lo cual él inmediatamente le mandaba un mensaje por medio de una aplicación
llamada WhatsApp a nuestro presidente de la compañía, el licenciado [Z].

[Arbitrator A]: Licenciado, su función aquí.

[Lawyer X]: Soy representante legal de [la Demandante].

[Arbitrator A]: Si, pero no estamos interrogando testigos, y entiendo que usted no ha hecho una declaración de testigos en este arbitraje.

[Lawyer X]: Es correcto.

[Arbitrator A]: Entiendo que lo que est’a mencionando ahorita no es parte del expediente.

Le pido, como el tema de hoy son temas muy específicos de Derecho, la demandante nunca ha presentado una declaración de testigo para su interrogatorio el día de hoy, como es común en arbitrajes, por lo tanto, usted no puede aquí participar como testigo y tampoco como abogado, porque usted entiendo que no es abogado.”

22. What this extract demonstrates is that [Arbitrator A] did have a good reason to limit [Lawyer X’s]’s right to present new factual evidence. [Arbitrator A] explained that the facts [Lawyer X] wanted to put forward were not in the record. [Lawyer X], who was appearing as Claimant’s legal representative, and

not as a factual witness, had indeed not filed any witness statement before the hearing. [Arbitrator A's] reaction was therefore duly justified. It is in line with the usual practice in international arbitration. Arbitrators have the duty to guarantee the compliance with due process and to protect the integrity of the proceedings. In my view, the Claimant has not demonstrated that [Arbitrator A] acted unfairly or biased during the proceedings, as required under Article 10.2(ii) of the LCIA Rules.

23. Claimant adds to its objection that [Arbitrator A] adopted a hostile behaviour against [Lawyer X] throughout the course of the hearing. However, it does not provide any evidence in this respect. The allegation cannot therefore be taken into consideration as a ground for challenge.

24. In any case, if Claimant had any concerns on how it had been treated during the hearing, one could have expected these concerns to be raised at the hearing, or, at least, shortly thereafter. Yet, I understand that Claimant waited until 15 April 2020, the date of its Challenge, to raise these concerns, that is four months after having confirmed at the hearing that (i) it was fully satisfied by the way the hearing had been conducted, (ii) that it considered it had been given the opportunity to properly raise its case, and that (iii) it thought the Parties had been treated equally:

> "**[Arbitrator A]**: Correcto.
>
> Siguiente pregunta, ¿a las partes se les otorgó una razonable oportunidad de presentar su caso hasta ahorita?
>
> **[Lawyer D]**: Sí, es correcto. Sí estamos de acuerdo.
>
> **[Arbitrator A]**: Demandada
>
> La pregunta fue ¿si se otorgó por parte del Tribunal Arbitral la oportunidad razonable de presentar su caso en este arbitraje?
>
> **[Lawyer E]**: Exactamente se nos otorgó toda la oportunidad.
>
> Gracias.
>
> **[Arbitrator A]**: Gracias.
>
> Y siguiente pregunta de tipo procesal ¿si les hemos otorgado -hicimos todo el esfuerzo posible- un trato igual? Los escritos yo creo que ahí cada quien tuvo. EI día de hoy parece que los tiempos también los logramos equilibrar entre ambas partes.
>
> **[Lawyer D]**: De nuestra parte está bien.
>
> **[Lawyer E]**: Hubo un trato igualitario. Gracias.

[Arbitrator A]: Gracias."

25. I therefore consider Claimant's objection unfounded.

26. Fourth, Claimant also asserts that the Parties had not been treated equally before the start of the hearing. It argues that when it informed the Tribunal of the addition of a new counsel to its team, [Arbitrator A] asked that new counsel to provide his professional card, proof of his professional affiliation, and requested that he use a professional email address instead of a Hotmail or Gmail address. According to Claimant, these queries were wider than those requested from Respondent when it also added a new counsel to its team. This argument is not a serious ground of challenge. [Arbitrator A] had the right to request all information he considered appropriate to guarantee the integrity of the proceedings. Claimant does not explain to what extent [Arbitrator A's] requests were inappropriate or extraordinary in the circumstances. I do not see how these administrative formalities could cast any doubt on [Arbitrator A's] impartiality.

27. Fifth, Claimant asserts that at the end of the hearing, [Arbitrator A] undertook that an award would be issued before Christmas; however, three months later, on 4 March 2020, the Tribunal was still working on the award. Claimant relies on the last two paragraphs of the following extract from the transcript of the 13 December 2019 hearing:

"El punto es el siguiente que nosotros primero tenemos que deliberar, que esperemos que la próxima semana.

Respecto al seguimiento, estamos esperando la transcripción consentida por ambas partes. Vamos a deliberar yo creo que, en los próximos días. Mis co-árbitros están disponibles, yo todavía estoy aquí toda la semana que viene.

Yo ya estoy casi curado, el [Arbitrator B] está en medio de la gripa, esperamos que podamos deliberar antes de Navidad, vamos a hacer todo lo posible para no retrasar este arbitraje y después quedan en *stand by*, yo creo que vamos a emitir una orden procesal para ajustar el procedimiento; me di cuenta ahorita como algunos temas como el día de hoy, sí lo tenemos en orden procesal cinco, pero tengan un poco de paciencia.

En su momento dado les vamos a dar otra vez señales de vida, y según la decisión a que llegamos, puede ser más formal o menos formal la decisión; todavía no lo podemos decir ahorita porque todavía no sabemos lo que se va a decidir."

28. Claimant's argument entirely disregards the first two paragraphs of the above extract. [Arbitrator A] did not undertake that an award would be issued by Christmas but stated instead that he hoped that the Tribunal could deliberate before that time. Besides, whilst the LCIA Rules provide in Article 15.10 that the Arbitral Tribunal shall seek to make its final award as soon as reasonably possible following

the last submission from the parties, the LCIA Rules do not provide for specific time limits within which Arbitral Tribunals have to issue their awards. Nonetheless, I understand from [Arbitrator A's] email to the parties of 16 April 2020 that the Tribunal members had their last deliberations meeting on 7 April 2020, and that they were reviewing the draft Award. Four months to finalize an award is reasonable. Therefore, the Claimant has not demonstrated that [Arbitrator A] conducted the proceedings inefficiently or negligent, as required under Article 10.2(iii) of the LCIA Rules. Moreover, the drafting of an award is a collegial exercise and there is no reason to put on [Arbitrator A] only the blame – if there could be any – for any delay in the issuance of the award. Claimant's objection is therefore rejected.

29. Sixth, Claimant alleges that [Arbitrator A] provided an ambiguous answer to Claimant's request for a stay of proceedings. It relies on the following email from [Arbitrator A]:
"[…]
[…]

Estimada [G], estimados colegas,

El Tribunal Arbitral informa que de acuerdo con el calendario procesal y las Ordenes Procesales actualmente no hay término pendiente. Lo anterior es sin perjuicio del deber general del Tribunal Arbitral de resolver la disputa de manera ágil y eficiente según lo dispuesto en el Articulo 14.4 (ii) de las Reglas LCIA con lo que se toman en cuenta cualesquier dificultades y las circunstancias actuales que el Tribunal Arbitral pudiera enfrentar.

Atentamente.

[Arbitrator A]"

30. Claimant fails to explain how the decision to reject the application, taken by the whole Tribunal, would illustrate [Arbitrator A's] alleged bias. In March 2020, when the application for a stay of proceedings was filed, there was no further procedural step pending, apart from the issuance of the award. The Tribunal had therefore no good reason to grant the suspension. The objection is therefore unfounded.

31. Seventh, Claimant explains that, in early April 2020, the Tribunal Secretary contacted Claimant's counsel over the phone to clarify, in an informal way, a doubt that [Arbitrator A] had, on whether Claimant had withdrawn its claim that the 2018 settlement had been entered under duress. The Tribunal Secretary also requested a copy of the audio recording of the hearing in order to verify that point. Claimant answered that this audio recording was already available on the shared electronic platform available to the Tribunal. According to Claimant, this sequence of events constitutes a violation of the Tribunal's obligation not to enter into unofficial *ex parte* correspondence with any party. It would also cast doubt on [Arbitrator A's] comprehensive knowledge of the case and his capacity to resolve the dispute expeditiously.

32. Respondent has explained, in his answer to the Challenge, that before reaching out to Claimant over the phone, the Tribunal Secretary invited Respondent to participate in the call, which Respondent declined with full knowledge of what was at issue. There was therefore no breach of equal treatment nor a violation of the Tribunal's obligation not to enter into unofficial *ex parte* correspondence with any party. Moreover, the doubt raised by [Arbitrator A] (as to whether Claimant maintained a certain claim) was a legitimate concern and an indication of his diligence, as he wanted to make sure that all issues raised by the Parties were addressed by the Tribunal.

33. In conclusion, I do not consider that circumstances have been established which could give rise to justifiable doubts as to [Arbitrator A's] impartiality. It has also not been established that [Arbitrator A] did not act fairly or impartially as between the parties, or that he did not conduct or participate in the arbitration with reasonable efficiency, diligence and industry. Accordingly, the test for challenging [Arbitrator A] under Article 10 of the LCIA Rules has not been met. The Challenge is therefore dismissed.

34. The costs of the Challenge amount to GBP 5,737.50 being the fees of the undersigned and GBP 6,957.08 being the charges that the LCIA has incurred for dealing with the Challenge, that is a total of GBP 12,694.58 . They have to be borne by Claimant since the Challenge is dismissed.

35. On 2 July 2020, the Respondent filed its cost submissions. It claims legal fees in the amount of 1,748,376 MXN in relation to the Challenge. According to the Respondent, each of its 9 lawyers worked a total of 168 hours over a period of 80 days. On the other hand, the Claimant submitted its cost submissions on 3 July 2020. It claims legal fees in the amount of 500,000 MXN for the work incurred in drafting submissions regarding the Challenge, without including costs concerning the 80-day delay in the proceedings caused by the Challenge. Since the Challenge is dismissed, the Claimant shall bear its own legal fees and reimburse part of the Respondent's legal fees. However, the Respondent has failed to properly justify its legal fees in its cost submissions. Its claim for 1,748,376 MXN corresponding to 1512 hours of work seems rather high given the short submissions filed with respect to the Challenge. It has also not explained the nature of the work performed by its lawyers during the 80-day period when they were not drafting submissions but merely awaiting the outcome of the Challenge. In light of the above, I consider that the Claimant shall reimburse the Respondent, as a contribution to the Respondent's legal fees, the amount of 250,000 MXN.

Seat of the arbitration: Mexico City

Date: 22 July 2020

[…]
[…]