

ARBITRATION UNDER THE UNCITRAL RULES

PCA CASE NO. 2010-18 / BCB-BZ

BRITISH CARIBBEAN BANK LTD (CLAIMANT)

v.

THE GOVERNMENT OF BELIZE (RESPONDENT)

ORDER NO. 8

28 APRIL 2014

CONSIDERING:

- (A) The Parties' submission on 8 April 2014 of Post-Hearing Memorials and the Claimant's enclosure with its Post-Hearing Memorial of a set of Excel spreadsheets setting out updated calculations of the amounts outstanding on the loans at issue in these proceedings;
- (B) The Respondent's letter of 8 April 2014, moving to strike the spreadsheets from the Claimant's memorial on the grounds that their "inclusion in the record at this late date violates this Tribunal's procedural orders and is highly prejudicial to GOB now that the hearing has been concluded, and GOB can no longer cross examine about [them]" (the "**Motion to Strike**");
- (C) The Claimant's letter of 14 April 2014, rejecting the Respondent's Motion to Strike and stating, *inter alia*, that "the spreadsheets merely update what has been previously submitted" insofar as they simply provide interest calculations updated to the date of the Post-Hearing Memorials;
- (D) The Respondent's letter of 14 April 2014, maintaining that the Claimant's late submission of the spreadsheet evidence denied it the opportunity to cross-examine the Claimant's witnesses on such issues as the compounding period for interest and contending that the Claimant had advanced no justifiable reason for the introduction of additional evidence;
- (E) The Claimant's letter of 16 April 2014, reiterating the position set out in its letter of 14 April 2014 (see Recital (C) above), noting that the Respondent had declined to

cross-examine in respect of the interest calculations in the earlier spreadsheets, and contending that the Tribunal could update the interest calculations itself even without the updated spreadsheets;

- (F) That the Tribunal notes that the calculations contained in the spreadsheets attached to the Claimant's Post-Hearing Memorial appear to be, with the exception of the range of dates through which interest is calculated, based directly on the spreadsheets enclosed in Exhibit C-122 to the Claimant's Amended Statement of Claim;
- (G) That although the Respondent challenges the relevance, accuracy, and foundation for the calculations contained in both Exhibit C-122 and the spreadsheets attached to the Claimant's Post-Hearing Memorial, the Respondent has not identified any discrepancy between the calculations contained in the two spreadsheets;
- (H) That insofar as the spreadsheets attached to the Claimant's Post-Hearing Memorial merely represents an update to evidence already in the record, the Tribunal is of the view that the spreadsheets attached to the Claimant's Post-Hearing Memorial do not constitute new evidence in these proceedings;

THE ARBITRAL TRIBUNAL HEREBY DECIDES AS FOLLOWS:

1. The Respondent's Motion to Strike the spreadsheets from the Claimant's Post-Hearing Memorial is **denied**.

On behalf of the Arbitral Tribunal,



Albert Jan van den Berg,
Presiding Arbitrator