

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

South32 SA Investments Limited
Claimant / Respondent on Annulment

v.

Republic of Colombia
Respondent / Applicant on Annulment

(ICSID Case No. ARB/20/9)
Annulment Proceeding

PROCEDURAL ORDER No. 2
On the Organization of the Hearing

Members of the Committee

Prof. Dr. Mohamed Abdel Wahab, President of the *ad hoc* Committee
Ms. Katherine González Arrocha, Member of the *ad hoc* Committee
Prof. Dr. Chiara Giorgetti, Member of the *ad hoc* Committee

Secretary of the ad hoc Committee
Ms. Catherine Kettlewell

May 4, 2026

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I. PROCEDURAL BACKGROUND

1. On April 6, 2026, the *ad hoc* Committee (“**Committee**”) invited the Parties to confer concerning the draft procedural order for the organization of the Hearing.
2. On April 29, 2026, the Parties informed that they had “reached full agreement on the proposed edits to the draft procedural order” and requested that, if amenable, to dispense of the pre-hearing conference scheduled for May 8, 2026.
3. On May 1, 2026, the Committee confirmed that the pre-hearing conference call was vacated and would proceed to finalize the procedural order.
4. The present Order sets out the procedural rules that the Parties have agreed upon and that the Committee confirms will govern the conduct of the Hearing.

II. ORGANIZATION OF THE HEARING

A. DATE AND VENUE

5. In accordance with the amended Procedural Calendar, and as established in the Committee’s communications to the Parties dated February 25, 2026 and April 15, 2026, the Hearing is scheduled to take place on June 22, 2026, at the Paris Arbitration Center by Delos facilities located at 192 rue Réaumur, Paris, France. The morning of June 23, 2026 will be held in reserve and used only should the Committee have any additional questions for the Parties.
6. ICSID will set up a live stream of the Hearing for members of counsel’s teams who will not be actively participating (*i.e.*, speaking) at the Hearing.

B. ORDER OF PROCEEDINGS AND SCHEDULE

7. Each day, the Hearing will start at 09:00 a.m. (Paris time). Day 1 will conclude by 06:15 p.m. (Paris time). Day 2 (if used) will conclude by 11:15 a.m. The order of proceedings and structure of the Hearing will be as indicated in the agenda incorporated as **Annex A**.

8. The Committee reserves the discretion to adjust the Hearing schedule as needed, following consultation with the Parties, to accomplish the prescribed agenda and to accommodate any technical and/or other disruptions.

C. TIME ALLOCATION

9. The Hearing will proceed on the basis of the principle that the parties should have equal time to present their case within the allocation agreed upon for each phase of the Hearing (Opening Statements and Closing Statements).
10. Time used by the parties in oral argument shall be attributable to the party making such argument.
11. The Committee can ask questions as needed throughout the Hearing, without being held to a specific number of hours. Time taken by the Committee for its own questions during a party's presentations and the answers to those questions shall not be counted against that party's time.
12. Time used for housekeeping or to resolve technical or other difficulties shall not be counted against the parties' time.
13. Each party will have an Opening Statement of up to 2 hours and a Closing Statement of up to 45 minutes.
14. The Secretary of the Committee shall keep the time, under the direction of the Committee, and she will advise the Parties of the total daily time used at the end of each Hearing day.
15. The Parties are expected to use each Hearing day efficiently and to avoid unnecessary slippage (*e.g.*, delays in returning from breaks). In the event of excess slippage, the Committee may revisit the length of the sitting day, or in unusual circumstances the time allocations of the Parties, bearing in mind principles of predictability, equal treatment and a fair opportunity for the Parties to be heard.

D. DOCUMENTS FOR USE AT THE HEARING

1. Electronic Hearing Bundle

16. Pursuant to Section 13.4 of Procedural Order No. 1, 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 Committee orders or decisions on file to date, with a consolidated hyperlinked index. It shall not contain any document not previously filed. It shall be organized as follows:

Electronic Hearing Bundle:

01. Pleadings

- A. South32
- B. Colombia

02. Exhibits

- A. South32
- B. Colombia

03. Legal Authorities

- A. South32
- B. Colombia

04. Committee Rulings

17. No later than June 1, 2026, the Electronic Hearing Bundle shall be uploaded by the Parties to a designated sub-folder in the BOX file-sharing platform. To ensure operation of the hyperlinked index in BOX, *if feasible*, 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 single zip file make uploading it to BOX not possible, the Parties may simply upload the Electronic Hearing Bundle to a designated sub-folder in the BOX filesharing platform organized in sub-folders using the structure indicated at paragraph 16 *supra*, including a consolidated (but non-hyperlinked) index.
18. Hearing Participants are advised to have the Electronic Hearing Bundle downloaded into their own computer devices and available for access offline, if necessary.

2. Demonstrative Exhibits

19. Demonstrative exhibits (including a Power Point or other slide presentations) may be used in accordance with Sections 15.17 and 15.18 of Procedural Order No. 1 (reproduced below), with the clarifications indicated in the paragraphs 20-21 *infra*:

“15.17. Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc. compiling information which is on record but not presented in such form) may be used at any hearing, provided that they: (i) identify the source on the record from which the information is derived; and (ii) do not contain information that is not on the record. Each Party shall number its demonstrative exhibits consecutively (preceded by “CD-” for South32 and preceded by “RD-” for Colombia).

15.18. The Party submitting such demonstrative exhibits shall provide them in electronic format and, if requested, in hard copy to the other Party, the Members of the Committee, the Secretary of the Committee, the court reporter(s) and the interpreter(s), at the hearing at a time to be decided at the pre-hearing organizational meeting. In addition, promptly after the conclusion of the hearing day in which the corresponding demonstrative exhibit is used, the submitting Party shall upload such demonstrative to the case folder in the electronic file-sharing platform (Box), designating each with the corresponding CD-__ or RD-__ number.”

20. Demonstrative exhibits shall be distributed by the party intending to use them via email to the entire case email distribution for each party, the Members of the Committee, the Secretary of the Committee, the court reporters, and to the interpreters immediately before their use. Paper copies shall be made available by the party intending to use it to the Committee Members and Opposing Counsel immediately before their use.
21. As provided for in Section 15.18 of Procedural Order No. 1, in addition to distribution during the Hearing, promptly after the conclusion of the respective Hearing day in which the corresponding demonstrative exhibit is used, the Parties shall also upload such demonstrative to the case folder in the BOX filesharing platform, designating it with the corresponding CD-__ (for South32) or RD-__ (for Colombia). At that time, each Party shall also present a unified index of all the demonstrative exhibits it distributed during the Hearing, with the respective CD-__ or RD-__ designations.

3. Other Provisions on Documents

22. Documents that do not form part of the record may not be used at the Hearing.

E. INTERPRETATION

23. The provisions of Sections 11.1, and 11.8 to 11.9 of Procedural Order No. 1 concerning interpretation at the Hearing (reproduced below) apply:

“11.1. English and Spanish are the procedural languages of the annulment proceeding.

[...]

11.8. Either procedural language English or Spanish may be used during hearings, and simultaneous interpretation from one procedural language into the other procedural language shall be available during all hearings.

11.9. The costs of the interpreter(s) will be paid from the advance payments made to ICSID, without prejudice to the decision of the Committee as to which Party shall ultimately bear those costs.”

24. In accordance with Section 11.8 of Procedural Order No. 1, simultaneous interpretation from one procedural language into the other shall be available throughout the Hearing.

F. TRANSCRIPTION

25. In accordance with Sections 20.2 to 20.3 of Procedural Order No. 1 (reproduced below), court reporting services in both procedural languages will be provided throughout the Hearing.

“20.2. *Verbatim* transcripts in the procedural languages shall be made of any hearing and session other than sessions on procedural issues. Unless otherwise agreed by the Parties or ordered by the Committee, the verbatim transcripts shall, if possible, be available in real-time using LiveNote or similar software and electronic transcripts shall be provided to the Parties and the Committee on a same-day basis.

20.3. The Parties shall agree on any corrections to the transcripts within 35 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections shall be jointly entered by the Parties in the transcripts (“**Revised Transcripts**”). The Committee shall decide upon any disagreement between the Parties and any correction adopted by the Committee shall be entered by the Parties in the Revised Transcripts.”

26. To facilitate accurate transcription and interpretation, Participants making an oral intervention at the Hearing are advised to speak at a reasonable speed and with pauses between phrases.
27. The connectivity details (links and instructions) to connect to the streamed real-time transcripts in both procedural languages will be shared by ICSID prior to the start of the Hearing.

G. RECORDINGS

28. The provisions of Section 20.1 of Procedural Order No. 1 concerning recordings (reproduced below) apply.

“20.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the Parties and the Members of the Committee.”

29. ICSID shall make the arrangements with Delos for the sound recordings of the Hearing, which will be shared with the Parties and the Members of the Committee at the conclusion of the Hearing. With the exception of court reporters, Hearing Participants shall not otherwise record the Hearing or any part thereof.

H. POST-HEARING MEMORIALS AND STATEMENTS COSTS

30. In accordance with Section 21 of Procedural Order No. 1:

“21.1. In consultation with the Parties, the Committee will determine at the end of the hearing whether there shall be any post-hearing memorials. If so, the Committee will address the time and page limits for, and the format and content of the post-hearing memorials. No new evidence may be produced with the post-hearing memorials, except with leave or on request of the Committee.

21.2. The Committee will issue directions on the Parties’ statements of costs at the end of the hearing.”

31. The Parties agreed on April 29, 2026, that (i) post-hearing briefs would be unnecessary and (ii) cost statements of one-page (i.e. cost tables) with no argument would be submitted at a reasonable period following the hearing (*i.e.*, by July 31, 2026). The Committee confirms this agreement.

I. CLOSED HEARING

32. In accordance with Section 19.7 of Procedural Order No. 1, the Hearing will be closed to the public.

J. LIST OF PARTICIPANTS AND DATA PRIVACY

33. Each Party shall provide its respective List of Participants for the Hearing (“**List of Participants**”) no later than June 1, 2026, using the format provided in **Annex B**.
34. The List of Participants for the Hearing will contain personal data provided to ICSID in the context of the Hearing, including names and contact information, such as business email addresses and telephone numbers. This data is processed for the purpose of the legitimate interests of the Parties in resolving efficiently their dispute and, in particular, to ensure that procedural documents and Hearing arrangements are properly communicated to the Parties, their legal representatives, the Members of the Committee and other participants providing services for the Hearing.

K. OTHER LOGISTICAL ARRANGEMENTS

35. Other logistical details (*e.g.*, set up day details, instructions for access of files into the Hearing room premises on the set-up day, confirmation of break-out room number assignments, on-site internet access codes, and catering orders, etc.) will be handled through correspondence directly by the ICSID Hearing Organization Team.

On behalf of the Committee,

[Signed]

Prof. Dr. Mohamed Abdel Wahab
President of the Committee
Date: May 4, 2026

ANNEX A: Hearing Agenda

Day 1: June 22, 2026

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
9:00 AM	15 min	Housekeeping
9:15 AM	2 hrs	Colombia's Opening Statement
11:15 AM	15 min	Break
11:30 AM	2 hrs	South32's Opening Statement
1:30 PM	45 min	Lunch
2:15 PM	45 min	Colombia's Closing Statement
3:00 PM	30 min	Break
3:30 PM	45 min	South32's Closing Statement
4:15 PM	15 min	Break
4:30 PM	1 hr 45 min	Committee questions
6:15 PM		End

Day 2: June 23, 2026 (held in reserve and used only should the Committee have any additional questions for the Parties)

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
9:00 AM	15 min	Housekeeping
9:15 AM	2 hrs	Committee Questions
11:15 AM		End

ANNEX B: List of Participants

COMMITTEE	
Prof. Dr. Mohamed Abdel Wahab	President
Ms. Katherine González Arrocha	Member
Prof. Dr. Chiara Giorgetti	Member

ICSID SECRETARIAT	
Ms. Catherine Kettlewell	Secretary of the Committee

SOUTH32	
First Name/ Last Name	Affiliation
<i>Counsel:</i>	
<i>Parties:</i>	

REPUBLIC OF COLOMBIA	
First Name/ Last Name	Affiliation
<i>Counsel:</i>	

INTERPRETERS	
First Name/ Last Name	Affiliation

COURT REPORTERS	
First Name/ Last Name	Affiliation