

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Gran Colombia Gold Corp.

v.

Republic of Colombia

(ICSID Case No. ARB/18/23)

PROCEDURAL ORDER No. 2

Members of the Tribunal

Ms. Jean Kalicki, President of the Tribunal

Professor Bernard Hanotiau, Arbitrator

Professor Brigitte Stern, Arbitrator

Secretary of the Tribunal

Mrs. Ana Constanza Conover Blancas

11 July 2019

Procedural Order No. 2

I. PROCEDURAL HISTORY

1. On 24 June 2019, the Tribunal issued Procedural Order No. 1, to which a provisional timetable for the arbitration was attached as Annex A.
2. On the same date, the Tribunal invited the parties to confer and try to agree on any minor adjustments they may wish to make to the specific dates set out in Annex A. The Tribunal informed the parties that it would issue a revised version of Annex A with the final dates of the procedural calendar for this proceeding upon receipt of the parties' comments.
3. Having received and considered the parties' comments of 1, 8 and 10 July 2019 regarding certain requests for revisions to the procedural timetable upon which the parties were unable to reach agreement, the Tribunal issues this Procedural Order No. 2, setting out the final dates of the procedural calendar for this arbitration.

II. ORDER

4. Annex A to Procedural Order No. 1 is hereby amended as follows:

ANNEX A

PROCEDURAL SCHEDULE FOR THE PROCEEDINGS

Three (3) Scenarios for Procedural Timetables under Procedural Order No. 1

SCENARIO 1

The following timetable shall apply in the event that objections to jurisdiction (if any) are made with the counter-memorial, and there is no request for bifurcation.

Description	Party/Tribunal	Period of Time (from prior step)	Date
First Session (by telephone conference)	All		Thursday, 6 June 2019
Claimant's Memorial	Claimant	17 weeks + 1 day	Friday, 4 October 2019
Respondent's Counter-Memorial (and Memorial on preliminary objections, if any)	Respondent	21 weeks	Friday, 28 February 2020

Procedural Order No. 2

Description	Party/Tribunal	Period of Time (from prior step)	Date
Requests for production of documents	Claimant and Respondent	4 weeks	Friday, 27 March 2020
Simultaneous responses, including any objections, to requests for production, and production of non-objected documents	Claimant and Respondent	4 weeks	Friday, 24 April 2020
Reply to objections to requests for document production and transmittal of Schedule to the Tribunal	Claimant and Respondent	4 weeks	Friday, 22 May 2020
Decision by the Tribunal on parties' requests for document production	Tribunal	3 weeks	Friday, 12 June 2020
Production of documents as ordered by the Tribunal	Claimant and Respondent	4 weeks	Friday, 10 July 2020
Claimant's Reply (and Counter-Memorial on preliminary objections, if any)	Claimant	12 weeks	Friday, 2 October 2020
Respondent's Rejoinder on merits and damages (and Reply Memorial on preliminary objections, if any)	Respondent	17 weeks	Friday, 29 January 2021
Claimants' Rejoinder memorial on preliminary objections, if any	Claimant	9 weeks	Friday, 2 April 2021
Parties to exchange list of witnesses and experts to be cross-examined at the hearing	Claimant and Respondent	6 weeks	Friday, 14 May 2021

Procedural Order No. 2

Description	Party/Tribunal	Period of Time (from prior step)	Date
Additional witnesses called by the Tribunal to be cross-examined at the hearing	Tribunal	1 week	Friday, 21 May 2021
Pre-hearing organizational meeting (by telephone conference)	All	1 week	Friday, 28 May 2021
Hearing	All	3 weeks + 3 days	21 June 2021 to 2 July 2021 ³
Post-Hearing Memorials	Claimant and Respondent	–	Need and Timing TBD
Submissions on Costs	Claimant and Respondent	–	TBD
Award/Decision	Tribunal	–	TBD

³ The parties are requested to confer and report back to the Tribunal, promptly after the exchange of first round-memorials (Claimant's Memorial and Respondent's Counter-Memorial), as to whether 10 hearing days are still likely to be required based on the scope of issues and number of potential witnesses presented in those submissions, or alternatively, whether some of these reserved dates may be released.

Procedural Order No. 2

SCENARIO 2

The following timetable shall apply in the event that objections to jurisdiction are made in response to the memorial on the merits, and there is a request for bifurcation which is granted.

Description	Party/Tribunal	Period of Time (from prior step)	Date
First Session (by telephone conference)	All		Thursday, 6 June 2019
Claimant's Memorial	Claimant	17 weeks + 1 day	Friday, 4 October 2019
Respondent's Summary of Jurisdictional Objections and Request for Bifurcation	Respondent	40 days	Wednesday, 13 November 2019
Claimant's Observations on Request for Bifurcation	Claimant	40 days	Monday, 23 December 2019
Tribunal's Decision on Bifurcation	Tribunal	42 days (including winter holidays)	Monday, 3 February 2020 ⁴
If the Tribunal determines that the proceeding should be bifurcated, the following timetable shall apply:			
Determination of the Jurisdictional hearing date	All	–	TBD (as soon as possible)
Respondent's Memorial on Jurisdiction	Respondent	9 weeks from Decision on Bifurcation	Monday, 6 April 2020
Claimant's Counter- Memorial on Jurisdiction	Claimant	9 weeks	Monday, 8 June 2020
Requests for production of documents (with respect to jurisdictional objections)	Claimant and Respondent	2 weeks	Monday, 22 June 2020
Responses, including any objections, to requests for production, and production of uncontested documents	Claimant and Respondent	2 weeks	Monday 6 July 2020

⁴ The Tribunal reserves the right to issue a short-form decision on bifurcation, with detailed reasons to follow, in order not to delay the further stages of the proceeding while the Tribunal is preparing its longer-form decision.

Procedural Order No. 2

Description	Party/Tribunal	Period of Time (from prior step)	Date
Reply to objections to requests for document production and transmittal of Schedules to Tribunal	Claimant and Respondent	2 weeks	Monday 20 July 2020
Decision by the Tribunal on parties' requests for document production	Tribunal	3 weeks (likely earlier for jurisdiction-only requests)	Monday 10 August 2020
Production of Documents as ordered by the Tribunal	Claimant and Respondent	3 weeks	Monday 31 August 2020
Respondent's Reply on Jurisdiction	Respondent	7 weeks	Monday 19 October 2020
Claimant's Rejoinder on Jurisdiction	Claimant	7 weeks	Monday 7 December 2020
Parties to exchange list of witnesses and experts to be cross-examined at the hearing on jurisdiction	Claimant and Respondent	3 weeks	Monday 28 December 2020
Additional witnesses called by the Tribunal to be cross-examined at the hearing	Tribunal	1 week	Monday 4 January 2021
Pre-hearing organizational meeting (by telephone conference)	All	1 week	Monday 11 January 2021
Hearing on Jurisdiction	All	–	TBD
Tribunal's Decision on Jurisdiction	Tribunal	–	TBD
Assuming that the decision on jurisdiction is not dispositive of the entirety of the arbitration, the following timetable shall apply:			
Determination of the Hearing date	All	–	TBD (as soon as possible)
Respondent's Counter-Memorial on the Merits	Respondent	16 weeks from Decision on Jurisdiction	TBD
Requests for production of documents	Claimant and Respondent	4 weeks	TBD

Procedural Order No. 2

Description	Party/Tribunal	Period of Time (from prior step)	Date
Responses, including any objections, to requests for production, and production of non-objected documents	Claimant and Respondent	4 weeks	TBD
Reply to objections to requests for document production and transmittal of Schedules to the Tribunal	Claimant and Respondent	4 weeks	TBD
Decision by the Tribunal on parties' requests for document production	Tribunal	3 weeks	TBD
Production of Documents as ordered by the Tribunal	Claimant and Respondent	4 weeks	TBD
Claimant's Reply on the Merits	Claimant	12 weeks	TBD
Respondent's Rejoinder on the Merits	Respondent	16 weeks	TBD
Parties to exchange list of witnesses and experts to be cross-examined at the hearing	Claimant and Respondent	5 weeks	TBD
Additional witnesses called by the Tribunal to be cross-examined at the hearing	Tribunal	1 week	TBD
Pre-hearing organizational meeting (by telephone conference)	All	1 week	TBD
Hearing on the Merits	All	–	TBD
Post-Hearing Memorials	Claimant and Respondent	–	Need and Timing TBD
Submissions on Costs	Claimant and Respondent	–	TBD
Award/Decision	Tribunal	–	TBD

Procedural Order No. 2

SCENARIO 3

The following timetable shall apply in the event that objections to jurisdiction are made in response to the memorial on the merits, and there is a request for bifurcation which is denied.

Description	Party/Tribunal	Period of Time (from prior step)	Date
First Session (by telephone conference)	All		Thursday, 6 June 2019
Claimant's Memorial	Claimant	17 weeks + 1 day	Friday, 4 October 2019
Respondent's Summary of Jurisdictional Objections and Request for Bifurcation	Respondent	40 days	Wednesday, 13 November 2019
Claimant's Observations on Request for Bifurcation	Claimant	40 days	Monday, 23 December 2019
Tribunal's Decision on Bifurcation	Tribunal	42 days (including winter holidays)	Monday, 3 February 2020 ⁵
If the Tribunal determines that the proceeding should not be bifurcated, the following timetable shall apply:			
Determination of the Hearing date	All	–	TBD (as soon as possible)
Respondent's Counter-Memorial on the Merits and Memorial on Jurisdiction	Respondent	16 weeks from Decision on Bifurcation	Tuesday, 26 May 2020 (deferred by 1 day on account of Assumption Day in Colombia - Monday, 25 May 2020)
Requests for production of documents	Claimant and Respondent	4 weeks	Tuesday, 23 June 2020
Responses, including any objections, to requests for production, and production of non-objected documents	Claimant and Respondent	4 weeks	Tuesday, 21 July 2020

⁵ The Tribunal reserves the right to issue a short-form decision on bifurcation, with detailed reasons to follow, in order not to delay the further stages of the proceeding while the Tribunal is preparing its longer-form decision.

Procedural Order No. 2

Description	Party/Tribunal	Period of Time (from prior step)	Date
Reply to objections to requests for document production and transmittal of Schedules to the Tribunal	Claimant and Respondent	4 weeks	Tuesday, 18 August 2020
Decision by the Tribunal on parties' requests for document production	Tribunal	3 weeks	Tuesday, 8 September 2020
Production of Documents as ordered by the Tribunal	Claimant and Respondent	4 weeks	Tuesday, 6 October 2020
Claimant's Reply on the Merits and Counter-Memorial on Jurisdiction	Claimant	12 weeks (+ 1 week extension for winter holidays)	Tuesday, 5 January 2021
Respondent's Rejoinder on the Merits and Reply on Jurisdiction	Respondent	17 weeks	Tuesday, 4 May 2021
Claimant's Rejoinder on Jurisdiction	Claimant	9 weeks	Tuesday, 6 July 2021
Parties to exchange list of witnesses and experts to be cross-examined at the hearing	Claimant and Respondent	5 weeks	Tuesday, 10 August 2021
Additional witnesses called by the Tribunal to be cross-examined at the hearing	Tribunal	1 week	Tuesday, 17 August 2021
Pre-hearing organizational meeting (by telephone conference)	All	1 week	Tuesday, 24 August 2021
Hearing on the Merits and Jurisdiction	All	–	TBD

Procedural Order No. 2

Description	Party/Tribunal	Period of Time (from prior step)	Date
Post-Hearing Memorials	Claimant and Respondent	–	Need and Timing TBD
Submissions on Costs	Claimant and Respondent	–	TBD
Award/Decision	Tribunal	–	TBD

[Signed]

Ms. Jean Kalicki
President of the Tribunal
Date: 11 July 2019