

**PCA Case No. 2013-15**

**IN THE MATTER OF AN ARBITRATION UNDER THE AGREEMENT BETWEEN THE  
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN  
IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA FOR THE  
PROMOTION AND PROTECTION OF INVESTMENTS, DATED MAY 24, 1988**

**- and -**

**THE UNCITRAL ARBITRATION RULES (AS REVISED IN 2010)**

**- between -**

**SOUTH AMERICAN SILVER LIMITED (BERMUDA)**

**(the “Claimant”)**

**- and -**

**THE PLURINATIONAL STATE OF BOLIVIA**

**(the “Respondent”, and together with the Claimant, the “Parties”)**

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**PROCEDURAL ORDER NO. 15**

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*Tribunal*

Dr. Eduardo Zuleta Jaramillo (Presiding Arbitrator)  
Prof. Francisco Orrego Vicuña  
Mr. Osvaldo César Guglielmino

**April 9, 2016**

## I. Procedural History

1. By letter of March 23, 2016 (the “**Request**”), South American Silver Limited (“**SAS**” or the “**Claimant**”) requested:
  - (i) the exclusion from the record of the witness statements of Félix César Navarro Miranda (RWS-2), Andrés Chajmi (RWS-3), Javier Díez de Medina Romero (RWS-5), and Juan Mamani Ortega (RWS-6) (jointly, the “**Testimonies**”), submitted by the Plurinational State of Bolivia (“**Bolivia**” or the “**Respondent**” and, together with the Claimant, the “**Parties**”) with its Rejoinder, dated March 21, 2016 (the “**Rejoinder**”), or, alternatively, that it is permitted the opportunity to respond to the Testimonies; and
  - (ii) an extension of 45 days to submit its Rejoinder on Jurisdiction (the “**Rejoinder on Jurisdiction**”).
2. Furthermore, the Claimant expressly reserved its right to seek (i) provisional measures, stating that, in its Rejoinder, Bolivia seems to threaten to intimidate or prosecute SAS’ witnesses, and that Bolivia has already engaged in this type of behavior in past international arbitrations;<sup>1</sup> and (ii) the exclusion of the testimony of Witness X and accompanying documents, or any other relief that may be appropriate in connection with that testimony.
3. By letter of March 24, 2016, the Tribunal granted until March 28, 2016, for Bolivia to submit its comments on the Request. Subsequently, at Bolivia’s request, the Tribunal extended this time limit until March 30, 2016.
4. By letter of March 30, 2016 (the “**Response**”), Bolivia opposed the Request. Likewise, Bolivia expressed its “strong objection” to the Claimant’s “reservation of rights” to request provisional measures for its witnesses.

## II. Positions of the Parties

### A. Exclusion of the Testimonies

#### *Claimant’s Position*

5. SAS affirms that Bolivia has improperly used the submission of its Rejoinder to submit new witness statements in the record, that concern, to a large degree, matters that were the subject of the Statement of Claim, dated September 24, 2014 (the “**Statement of Claim**”), and that Bolivia responded to in its Counter-Memorial, dated March 31, 2016 (the “**Counter-Memorial**”).<sup>2</sup> The submission of the Testimonies is thus untimely, for, in accordance to paragraph 6.3 of Procedural Order No. 1, the procedural opportunity to submit them was with the Counter-Memorial.<sup>3</sup>
6. According to SAS, the allegations in the testimonies of Messrs. Chajmi<sup>4</sup> and Navarro Miranda<sup>5</sup> are identical to those made by Bolivia in its Counter-Memorial.<sup>6</sup> For their part, the testimonies

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<sup>1</sup> Request, p. 4; making express reference to Rejoinder, para. 17, and to *Quilborax S.A., Non Metallic Minerals S.A. and Allan Fosk Kaplún v. The Plurinational State of Bolivia*, ICSID Case No. ARB/06/2, Decision on Provisional Measures, February 26, 2010, para. 145.

<sup>2</sup> Request, pp. 1-2.

<sup>3</sup> Request, p. 2.

<sup>4</sup> Request, p. 2, making express reference to paragraphs 8 to 36 of the Witness Statement of Andrés Chajmi (RWS-3).

of Messrs. Díez de Medina Romero and Mamani Ortega focus on the management of community relations of Compañía Minera San Cristóbal S.A. (“**CMSC**”), which had been criticized by Bolivia in its Counter-Memorial.<sup>7</sup> Moreover, none of the Testimonies makes reference to new facts that SAS would have presented in its Reply, dated November 30, 2015 (the “**Reply**”).<sup>8</sup>

7. Lastly, SAS alleges that the late submission of the Testimonies is unfair as it deprives SAS of the opportunity to respond, thus the Testimonies should be excluded from the record or, alternatively, SAS should be permitted the opportunity to respond with additional documentary evidence or testimonies with its Rejoinder on Jurisdiction, with the understanding that, if SAS does not do so, it shall not be deemed to have agreed to the correctness of the Testimonies.<sup>9</sup>

*Respondent’s Position*

8. Bolivia alleges that SAS misrepresents paragraph 6.3 of Procedural Order No. 1 and states that SAS’ interpretation would imply that testimonies submitted may only respond to new issues raised by the other party in its previous submission, which, according to Bolivia, would be absurd.<sup>10</sup> On the contrary, Bolivia contends that said paragraph only requires that the testimonies submitted with the Rejoinder respond or rebut some point raised in the Reply.<sup>11</sup>
9. According to Bolivia, the Testimonies directly respond to the statements made by SAS and/or its witnesses in the Reply.<sup>12</sup> Thus, noting that Messrs. Chajmi and Navarro Miranda were not mentioned in the Statement of Claim, Bolivia submits that Mr. Chajmi’s testimony responds to the accusations made against him by SAS and its witnesses in the Reply,<sup>13</sup> while Mr. Navarro Miranda clarifies the content of a document signed by him that was submitted for the first time by SAS with its Reply.<sup>14</sup>
10. Regarding Messrs. Díez de Medina Romero and Mamani Ortega, Bolivia notes that their testimonies describe the community relations programs of CMSC, which Bolivia compares with

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<sup>5</sup> Request, p. 2, making express reference to paragraphs 36 to 47 of the Witness Statement of Félix César Navarro Miranda (RWS-2).

<sup>6</sup> Bolivia makes reference to sections 3.3.2, 3.5 and 3.6 of the Counter-Memorial for the Witness Statement of Andrés Chajmi (RWS-3), and sections 3.5 and 3.6 for the Witness Statement of Félix César Navarro Miranda (RWS-2).

<sup>7</sup> Request, p. 2; making express reference to the Witness Statement of Javier Díez de Medina Romero (RWS-5) and to the Witness Statement of Juan Mamani Ortega (RWS-6) in relation to section 3.3 of the Counter-Memorial.

<sup>8</sup> Request, p. 2.

<sup>9</sup> Request, p. 3.

<sup>10</sup> Response, p. 2.

<sup>11</sup> Response, p. 2.

<sup>12</sup> Response, p. 2.

<sup>13</sup> Response, p. 2, making express reference to Reply, paras. 43, 84, 85 and 110. Regarding the Statement of Claim, Respondent submits that the only references are found in the first Witness Statements of Mr. Gonzales Yutronic (CWS-4), paragraphs 10 and 18, and of Mr. Mallory (CWS-3), paragraphs 23 and 33.

<sup>14</sup> Response, p. 3, making express reference to Reply, paras. 91, 109, 110, 120, 132 and 137. Respondent refers to document **C-230**, Letter of the Vice Minister of Social Movements and Civil Society Coordination to CMMK of February 10, 2011. In the event SAS only object to the portion of the testimony to which it expressly refers in its Request (paragraphs 36 to 47), Bolivia notes that said paragraphs respond directly to paragraphs 94 to 140 of the Reply.

those of CMMK in its Rejoinder. Bolivia further notes that SAS tried to rebut in its Reply, with new evidence,<sup>15</sup> the criticisms made by Bolivia to these programs in its Counter-Memorial<sup>16</sup>.

11. Furthermore, Bolivia submits that SAS is referring for the first time to “numerous grave facts” in its Reply that it failed to address before; therefore, according to Respondent, requesting that the response of Bolivia and its witnesses to these new facts be stricken from the record would be contrary to its right to due process.<sup>17</sup>
12. Lastly, Bolivia notes that SAS is not deprived of the opportunity to respond to the Testimonies. According to Bolivia, SAS itself recognizes that the Testimonies make reference, *inter alia*, to facts regarding the jurisdictional objection concerning ‘clean hands’; therefore, SAS may respond in its Rejoinder on Jurisdiction and its witnesses may respond during the direct examination at the hearing.<sup>18</sup>

### ***B. Extension for Submission of the Rejoinder on Jurisdiction***

#### *Claimant’s Position*

13. SAS submits that having agreed to the Respondent’s 30-day extension requests on two occasions, on May 2013<sup>19</sup> and December 2014,<sup>20</sup> Bolivia had agreed to reciprocate should SAS request an extension.
14. According to SAS, Bolivia has been granted several extensions amounting to 118 additional days, including the aforementioned extensions agreed by SAS and others granted by the Tribunal,<sup>21</sup> while SAS has received none (except for the short extension during the preparation of its Reply in connection to Bolivia’s application for security for costs).<sup>22</sup>
15. Noting that Bolivia bases its objection to the Tribunal’s jurisdiction on nine different grounds that would establish SAS’ lack of ‘clean hands’, Claimant submits that it would be impossible

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<sup>15</sup> Response, p. 3, making express reference to the following documents: C-139, SASC y Cumbre del Sajama S.A., Informe Final, *Conociendo la Minería*, 2008; C-165, Cumbre del Sajama S.A., Talleres *Una Exploración Minera en Marcha Hacia el Futuro*, febrero de 2010; C-166, SASC y Cumbre del Sajama S.A., Talleres *Conociendo y Cuidando Nuestro Medio Ambiente Comunitario*, mayo de 2009; C-167, Cumbre del Sajama, Informe Taller *Identificación y Priorización de Demandas / Proyectos de Desarrollo Comunitario*, 2011; C-154, Business for Social Responsibility, *Social Risks and Opportunities for South American Silver Corporation’s Malku Khota Project in Potosí*, mayo de 2009; CWS-7, Second Witness Statement of Santiago Angulo, paras. 3 to 38; CWS-8, Second Witness Statement of Xavier Gonzales Yutronic, paras. 6 to 10; CWS-9, Second Witness Statement of Felipe Malbran, paras. 2 to 27; CWS-10, Second Witness Statement of William James Mallory, paras. 5 to 37.

<sup>16</sup> Response, pp. 3-4, making express reference to Reply, para. 72 (“*Finally, extending a mining project’s area of influence beyond 2.5 kilometers was not unreasonable. For example, the area of influence of the San Cristobal mine goes as far as 140 kilometers from the project*”).

<sup>17</sup> Response, p. 4.

<sup>18</sup> Response, p. 4.

<sup>19</sup> Request, p. 3, making reference to Annex 1, Letter from the Claimant to the PCA, dated May 31, 2013, that encloses electronic correspondence between the Parties of May 29 to 31, 2013, *see* e-mail from Henry H. Burnett to the Legal Representative of Bolivia, Dr. Edgar Pozo Goytia, sent on May 29, 2013 at 12:02 p.m., e-mail from Dr. Edgar Pozo Goytia to Henry H. Burnett, sent on May 29, 2013 at 5:54 p.m., and e-mail from Henry H. Burnett to Dr. Edgar Pozo Goytia, sent on May 29, 2013 at 7:25 p.m.

<sup>20</sup> Request, p. 3. According to Claimant, in this case, it agreed to the extension regarding the Counter-Memorial on the basis of Bolivia’s oral representation that it would reciprocate when, and if, Claimant requested a similar extension.

<sup>21</sup> Request, p. 3. Claimant notes that the Tribunal granted Bolivia 37 days, also in connection to the Counter-Memorial and, more recently, 21 days for its Rejoinder pursuant to Procedural Order No. 11 dated January 28, 2016.

<sup>22</sup> Request, p. 3.

for it to rebut those multiple extensive factual allegations in the 30 days originally granted to SAS to submit its Rejoinder on Jurisdiction.<sup>23</sup> SAS contends that this time limit is even more restrictive in light of the fact that Bolivia, in addition to the Testimonies, has submitted the statement of Witness X, which is material to the issue of ‘clean hands’. In addition, the translations of the Rejoinder, and the witness statements and the expert reports will not be submitted until April 5 and 11, respectively.<sup>24</sup>

16. Moreover, according to SAS, the extension would not affect the hearing date, nor would it prejudice Bolivia, who can begin preparing the hearing on other issues and would still have five weeks to revise SAS’ arguments on jurisdiction.<sup>25</sup>

*Respondent’s Position*

17. Bolivia contends that the fact new testimonies were submitted with the Rejoinder does not justify the requested 45-day extension.<sup>26</sup>
18. According to Bolivia, SAS has had more than 8 months to submit its Reply while Bolivia only had 3 months to submit its Rejoinder. Furthermore, SAS itself has alleged before that the procedural calendar was agreed by the Parties, thus SAS knew from the beginning that Bolivia could submit jurisdictional objections based on illegality. Therefore, if it needed more time, SAS should have requested it then.<sup>27</sup>
19. In addition, if the extension was granted the five weeks that would remain between the Rejoinder on Jurisdiction and the hearing are insufficient for its preparation, especially in light of the foreseeable submission of new evidence with that brief.<sup>28</sup> Bolivia recalls that a minimum of 90 days was agreed upon to prepare the hearing and affirms that it needs at least two months.<sup>29</sup> As a result, should the extension be granted, a new date for the hearing should be fixed.<sup>30</sup>
20. Finally, Bolivia argues that the date of reception of the translations is irrelevant, for SAS has Spanish speaking lawyers and the delay in receiving the testimony of Witness X is due to SAS’ own behavior.<sup>31</sup>

**III. Tribunal’s Analysis**

**A. On SAS’ Request to Exclude the Testimonies**

21. The 2010 UNCITRAL Arbitration Rules (the “**UNCITRAL Rules**”), applicable to this arbitration, provide that the Tribunal shall determine the admissibility, relevance, materiality

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<sup>23</sup> Request, pp. 3-4.

<sup>24</sup> Request, p. 4.

<sup>25</sup> Request, p. 4.

<sup>26</sup> Response, p. 4.

<sup>27</sup> Response, p. 5.

<sup>28</sup> Response, p. 5.

<sup>29</sup> Response, p. 5, making reference to the Transcription of the First Session, p. 34.

<sup>30</sup> Response, p. 5.

<sup>31</sup> Response, p. 5.

- and weight of the evidence offered.<sup>32</sup> Likewise, the IBA Rules on the Taking of Evidence in International Arbitration (the “**IBA Rules**”), which serve as additional guideline for the Tribunal,<sup>33</sup> note that it shall determine the admissibility, relevance, materiality and weight of evidence.<sup>34</sup>
22. The Parties do not question the Tribunal’s authority to adopt a decision on the admissibility of witness evidence, the exclusion of which was requested by SAS mainly because it considers that Bolivia submitted the Testimonies and their accompanying documents in an untimely manner.
  23. The rules applicable to the submission of witness statements in this arbitration are found in Procedural Order No. 1.
  24. Indeed, paragraph 6.2 of Procedural Order No. 1 provides:

“The Parties shall submit with their written submissions **all evidence and authorities on which they intend to rely** in support of the factual and legal arguments advanced therein, including witness statements, expert reports, documents, and all other evidence in whatever form.” (Emphasis added)
  25. Subsequently, when referring expressly to the Reply and Rejoinder, paragraph 6.3 of Procedural Order No. 1 provides:

“**In their rebuttal submissions (i.e., Reply and Rejoinder)**, the Parties shall submit **only** additional written witness testimony, expert opinion testimony and documentary or other **evidence to respond to or rebut matters raised in the other Party’s prior written submission**, except for new evidence they receive through document production.” (Emphasis added)
  26. From the reading of these provisions, the Tribunal concludes that only testimony relating to matters raised in the Counter-Memorial may be submitted with the Reply. On the contrary, it is not possible to include new testimonies on matters not raised in the Counter-Memorial and that should have been introduced with the Statement of Claim.
  27. Likewise, only testimonies on matters that were not raised in the Statement of Claim, and thus, that could not have been responded to in the Counter-Memorial, may be submitted with the Rejoinder. This means that it is not possible to include new testimonies with the Rejoinder on matters raised in the Statement of Claim and that should have been responded to in the Counter-Memorial.
  28. The procedural calendar set forth in Procedural Order No. 1 provided for the possibility that the Parties submit two rounds of written pleadings with their submissions on jurisdiction and merits. In said calendar and under this logic, the Claimant was granted a term of 30 days to submit the Rejoinder on Jurisdiction, specifically and solely on the objections to jurisdiction raised by the Respondent. Thus, at this stage of the proceedings, the Rejoinder on Jurisdiction and accompanying evidence may only respond to the arguments on jurisdiction submitted by Bolivia in its Rejoinder.

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<sup>32</sup> Article 27(4) of the UNCITRAL Rules.

<sup>33</sup> Procedural Order No. 1, dated May 27, 2014, paragraph 6.1.

<sup>34</sup> Article 9(1) of the IBA Rules.

29. The Tribunal, in order to maintain procedural equality, has taken into account this feature of the procedural calendar, in addition to the aforementioned provisions, to make the decisions contained in this Procedural Order.
30. SAS requested the total exclusion of the testimonies of Andrés Chajmi (RWS-3), Javier Díez de Medina Romero (RWS-5) and Juan Mamani Ortega (RWS-6), and the partial exclusion of the testimony of Félix César Navarro Miranda (RWS-2).<sup>35</sup> Below, the Tribunal will refer to each such testimony, the Parties' arguments on their admission, and the reasons that justify their admission or exclusion from the record of this arbitration.

*1. Testimony of Andrés Chajmi*

31. SAS requested the exclusion of Andrés Chajmi's testimony (RWS-3) because, according to SAS, it focuses on facts to which Bolivia refers in its Counter-Memorial, and because it does not refer to new facts presented by the Claimant in its Reply.<sup>36</sup>
32. Bolivia opposes the exclusion of this testimony because SAS referred to specific actions of Mr. Chajmi in its Reply, and because the issues mentioned by him in his testimony were mentioned by SAS in the Reply.<sup>37</sup> Moreover, Bolivia notes that the Statement of Claim has no reference at all to Mr. Chajmi.<sup>38</sup>
33. The Tribunal notes that, in its Reply, SAS made various references to Mr. Chajmi's actions that had not been included in its Statement of Claim. In his testimony, Mr. Chajmi responds to the continuous references to his actions included in the Reply. Therefore, the Tribunal considers that this testimony fulfills the requirements established in Procedural Order No. 1 and that the Claimant's request to exclude this testimony should not succeed. Furthermore, the Tribunal notes that Mr. Chajmi's statements are related to what Bolivia has called the 'clean hands' jurisdictional objection. Consequently, SAS will have the opportunity to respond to or rebut these allegations in its Rejoinder on Jurisdiction and to submit with that brief the evidence it deems appropriate.

*2. Testimony of Javier Díez de Medina Romero*

34. SAS considers that the testimony of Javier Díez de Medina Romero (RWS-5) refers to the management of the relations with the community in CMSC's project, which were criticized by Bolivia in its Counter-Memorial, and that this witness does not refer to new facts alleged by SAS in the Reply.<sup>39</sup>
35. According to Bolivia, this testimony refers to the arguments SAS tried to rebut in its Reply with new documentary evidence.<sup>40</sup> Moreover, Bolivia states that used this statement to compare the community relations programs of CMMK with those of CMSC in its Rejoinder.<sup>41</sup>
36. The Tribunal notes that the testimony of Mr. Díez de Medina Romero does not refer to new facts presented in SAS' Reply but to facts that had been raised by Bolivia in the Counter-

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<sup>35</sup> Request, p. 2.

<sup>36</sup> Request, p. 2.

<sup>37</sup> Response, p. 2.

<sup>38</sup> Response, p. 2.

<sup>39</sup> Request, p. 2.

<sup>40</sup> Response, p. 3.

<sup>41</sup> Response, p. 3.

Memorial. Bolivia itself notes that it criticized SAS' management of the relations with the community in the Counter-Memorial—the testimony is submitted to support those criticisms—and it has failed to present a satisfactory explanation that would justify the submission of this testimony with the Rejoinder instead of with the Counter-Memorial. Consequently, the Tribunal considers that this testimony could have been submitted by Bolivia with its Counter-Memorial and, therefore, should be excluded from the record of this arbitration.

3. *Testimony of Juan Mamani Ortega*

37. As with the previous testimony, SAS considers that the testimony of Juan Mamani Ortega (RWS-6) refers to facts regarding the management of the relations with the community in CMSC's project that were criticized by Bolivia in its Counter-Memorial, and that this witness does not refer to new facts alleged by SAS in its Reply.<sup>42</sup>
38. Bolivia notes that this testimony refers to arguments that SAS tried to rebut in its Reply with new documentary evidence.<sup>43</sup> Respondent states that it used this statement to compare the community relations programs of CMMK with those of CMSC in its Rejoinder.<sup>44</sup>
39. The Tribunal notes that the testimony of Mr. Mamani Ortega does not refer to new facts presented in SAS' Reply but to facts that had been raised by Bolivia in the Counter-Memorial. Bolivia itself notes that it criticized SAS' management of the relations with the community in the Counter-Memorial—the testimony is submitted to support those criticisms—and it has failed to present a satisfactory explanation that would justify the submission of this testimony with the Rejoinder instead of with the those criticisms. Consequently, this testimony could have been submitted by Bolivia with its Counter-Memorial and, therefore, should be excluded from the record of this arbitration.

4. *Testimony of Félix César Navarro Miranda*

40. SAS requests the partial exclusion of the testimony of Félix César Navarro Miranda (RWS-2, paragraphs 36 to 47) because it does not refer to new facts alleged by SAS in its Reply.<sup>45</sup>
41. Bolivia, for its part, notes that this witness refers to direct allegations contained in the Reply and offers comments on a document that SAS submitted with its Reply and to which it refers multiple times in said brief.<sup>46</sup>
42. The Tribunal notes that the controverted section of the testimony of Mr. Navarro Miranda refers to facts the witness has direct knowledge about, and to which SAS refers in its Reply. Therefore, the Tribunal considers that this testimony meets the requirements established in Procedural Order No. 1 and that SAS' request to exclude this testimony should not succeed. Moreover, the Tribunal notes that the statements of Mr. Navarro Miranda are related to what Bolivia has called the 'clean hands' jurisdictional objection. Consequently, SAS will have the opportunity to respond to or rebut these allegations in its Rejoinder on Jurisdiction and to submit with that Rejoinder the evidence it deems appropriate.
43. Alternatively, SAS requested that the Tribunal allow it to submit testimony and evidence that would contradict whatever witness statements were admitted by this Procedural Order.

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<sup>42</sup> Request, p. 2.

<sup>43</sup> Response, p. 3.

<sup>44</sup> Response, p. 3.

<sup>45</sup> Request, p. 2.

<sup>46</sup> Response, p. 3.



44. In light of the foregoing, the Tribunal clarifies that the rules on submission of evidence in Procedural Order No. 1 have not been modified by means of this Procedural Order and SAS may submit evidence provided it follows said rules.

***B. On SAS' Request for an Extension of the Time Limit to Submit its Rejoinder on Jurisdiction***

45. Pursuant to paragraph 4.7 of Procedural Order No. 1, the Tribunal may grant extensions to the Parties for justifiable reasons, “(...) *provided that such extensions do not affect the dates fixed for any hearing or other meeting and that the request for an extension is submitted as soon as practicable after a Party became aware of the circumstances which prevent it from complying with the deadline.*” This authority coexists with the duty of the Tribunal, referred to in article 17(1) of the UNCITRAL Rules, applicable to this arbitration, to conduct the arbitration in such manner as it considers appropriate avoiding unnecessary delay and expense.
46. The Tribunal notes, first, that the extension request was made by SAS on March 23, 2016, as soon as it completed its review of Bolivia’s Rejoinder.
47. This request is based on the circumstances surrounding the submission of Bolivia’s Rejoinder.<sup>47</sup> In particular, SAS refers to the submission of five new testimonies to support Bolivia’s objections to jurisdiction,<sup>48</sup> one of which was received only after the execution of the Protective Order referred to in Procedural Order No. 14. Additionally, SAS considers that there are additional delays in the reception of the translations of Bolivia’s Rejoinder and the testimonies, which would justify the extension requested, and that said extension would not prejudice Bolivia as the latter would have enough time to prepare for the hearing<sup>49</sup>.
48. The Tribunal notes that, (a) as a consequence of the decisions rendered in Procedural Order No. 14, Claimant only received a complete version of the Rejoinder and the Testimony of Witness X, along with its 52 exhibits, 11 days after the submission of the Rejoinder, and (b) as a result of the decision adopted in this Procedural Order and in Procedural Order No. 14, the Rejoinder introduced three new testimonies to the record: Andrés Chajmi (RWS-3), Félix César Navarro Miranda (RWS-2) and Witness X (RWS-7).
49. The Tribunal considers that this is the only circumstance that would prevent SAS from submitting its Rejoinder on Jurisdiction on the date initially fixed and which would justify its extension. Consequently, this deadline will be extended for a period equal to the time taken in the delivery of the complete version of the Rejoinder and the Testimony of Witness X, along with its 52 exhibits, *i.e.*, 11 days. The Rejoinder on Jurisdiction shall thus be submitted by Monday, May 2, 2016.
50. Other dates set forth in Procedural Order No. 1 are not modified by this Procedural Order.

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<sup>47</sup> Request, p. 3.

<sup>48</sup> Request, p. 4.

<sup>49</sup> Request, p. 4.

**IV. Tribunal's decision**

51. In view of the foregoing, the Tribunal:

- a. Admits to the record of this arbitration the testimonies of Andrés Chajmi (RWS-3) and Félix César Navarro Miranda (RWS-2) in their entirety;
- b. Excludes from the record of this arbitration the testimonies of Javier Díez de Medina Romero (RWS-5) and Juan Mamani Ortega (RWS-6) in their entirety; and
- c. Grants an extension, until **Monday, May 2, 2016**, for the submission of the Rejoinder on Jurisdiction.

**Place of the Arbitration: The Hague, the Netherlands**



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Dr. Eduardo Zuleta Jaramillo  
(Presiding Arbitrator)

On behalf of the Tribunal