

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”)

PROCEDURAL ORDER NO. 19

Tribunal

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

May 17, 2016

I. Procedural History and Positions of the Parties

1. By means of Procedural Orders Nos. 17 and 18, the Tribunal, for the reasons expressed therein, rejected the application filed by South American Silver Limited (“**SAS**” or the “**Claimant**”) for the Tribunal to issue a special order for the protection of two witnesses, whose testimonies have been submitted in a redacted version to the Tribunal and the Plurinational State of Bolivia (“**Bolivia**” or the “**Respondent**”). Claimant filed non-redacted versions of the said witness testimonies with the Secretary of the Tribunal.
2. By communication dated May 9, 2016, Respondent requested Claimant or the Secretary of the Tribunal to immediately release to Bolivia the non-redacted versions of the two testimonies. By communication of even date, Claimant opposed such request.
3. By communication of May 13, 2016, the Tribunal indicated that: (a) it would not be in a position to order the delivery without redactions of the witness statements, as requested by Bolivia; (b) it could not accept the redacted versions of the witness statements as doing so would not only contravene due process, as the Tribunal had indicated already, but also Procedural Order No. 1; and (c) it had already granted protection to other witnesses under a protocol defined in Procedural Order No. 14.
4. Based on the above considerations, in the same communication, the Tribunal requested Claimant to indicate, by Friday, May 13, 2016, (a) whether it would accept to deliver the two witness statements to Respondent and the Tribunal without redactions and without any protection; or (b) whether it would accept to deliver the two witness statements to Respondent and to the Tribunal without redactions under a protective order in the same terms as that granted to a witness of Bolivia under Procedural Order No. 14.
5. By communication dated May 13, 2016, Claimant indicated that neither option is acceptable to it, or to the witnesses in question, and therefore Claimant cannot submit un-redacted versions of the witness statements without protection or with the protection provided under Procedural Order No. 14, which Claimant considers insufficient for these two witnesses.
6. Claimant adds that under these circumstances it has no choice but to request that the Tribunal remove from the record of this arbitration the witness testimonies contained in documents CWS-14 and CWS-15. Claimant further requests the Secretary of the Tribunal to destroy the un-redacted versions of the testimonies contained in documents CWS-14 and CWS-15.

II. Tribunal’s Decision

7. In view of the foregoing, the Tribunal:
 - a. Excludes from the record of this arbitration the testimonies contained in documents CWS-14 and CWS-15.

- b. Accepts the request of Claimant for the Secretary of the Tribunal to destroy the non-redacted versions of the testimonies contained in documents CWS-14 and CWS-15, and consequently, requests the Secretary to proceed with the destruction and to inform the Parties accordingly.

Place of the Arbitration: The Hague, the Netherlands



Dr. Eduardo Zuleta Jaramillo
(Presiding Arbitrator)

On behalf of the Tribunal