

PCA Case No. 2018-39

**IN THE MATTER OF AN ARBITRATION UNDER THE TREATY BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF
THE REPUBLIC OF BOLIVIA CONCERNING THE ENCOURAGEMENT AND
RECIPROCAL PROTECTION OF INVESTMENT, SIGNED ON APRIL 17, 1998 AND
ENTERED INTO FORCE ON JUNE 6, 2001**

- and -

**THE ARBITRATION RULES OF THE UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW, AS REVISED IN 2010/2013 (the “UNCITRAL Rules”)**

- between -

**1. THE ESTATE OF JULIO MIGUEL ORLANDINI-AGREDA
2. COMPAÑÍA MINERA ORLANDINI LTDA.**

(the “Claimants”)

- and -

THE PLURINATIONAL STATE OF BOLIVIA

(the “Respondent”, and together with the Claimants, the “Parties”)

**PROCEDURAL ORDER NO. 4
Phase on Jurisdiction and Liability**

Tribunal

Dr. Stanimir A. Alexandrov (Presiding Arbitrator)
Professor Dr. Guido Santiago Tawil
Dr. José Antonio Moreno Rodríguez

August 12, 2019

I. Background

1. The Tribunal issued its Procedural Order No. 3 (Procedural Calendar) on March 8, 2019. Procedural Order No. 3 reads, in relevant part, as follows:

The schedule for the phase of the proceedings following the Decision on Bifurcation shall be fixed in accordance with Scenario 1 or 2 of Annex 1 to this order, as applicable, after the issuance of the Decision on Bifurcation.

2. On July 9, 2019, the Tribunal issued its Decision on the Respondent's Application for Termination, Trifurcation and Security for Costs, in which the Tribunal, *inter alia*, (i) bifurcated the proceedings into a stage of jurisdiction and liability to be followed, if necessary, by a stage on damages and quantum; and (ii) invited the Parties to seek to reach an agreement on a schedule for the next stage of the proceedings (jurisdiction and liability) consistent with the non-bifurcated timetable set out in Scenario 1 of Annex 1 to Procedural Order No. 3. By letter of the same date, the Tribunal invited the Parties' comments on the venue of the Oral Hearing on Jurisdiction and Liability.
3. On July 23, 2019, the Parties submitted (i) a joint procedural calendar proposal for the phase on jurisdiction and liability; and (ii) their respective views on their preferred venue for the Oral Hearing on Jurisdiction and Liability.
4. On July 30, 2019, at the Tribunal's invitation, the Parties confirmed their agreement that the Oral Hearing on Jurisdiction and Liability last one week.
5. On August 6, 2019, at the Tribunal's request, the Parties confirmed their availability for a one-week hearing in the week commencing May 17, 2021.

II. Procedural Calendar for the Phase on Jurisdiction and Liability

6. Pursuant to the agreement of the Parties, the Tribunal has determined that the Procedural Calendar for the Phase on Jurisdiction and Liability shall be as set out in **Annex 1** to this order.
7. The Tribunal reserves its powers to amend the procedural calendar at any stage, as may be necessary, following consultations with the Parties.

III. Venue of the Oral Hearing on Jurisdiction and Liability

8. The Tribunal has noted the Parties' positions regarding the venue of the Oral Hearing on Jurisdiction and Liability as set out in their correspondence of July 23, 2019. The Claimants have proposed that the hearing be held in Washington, D.C., USA, while the Respondent favors Paris, France.
9. After considering the Parties' positions on this matter, the Tribunal believes that holding the Oral Hearing on Jurisdiction and Liability in Washington, D.C. is preferable in terms of cost-effectiveness. Several factors weigh in favor of Washington, D.C. as a hearing venue in this matter as compared to Paris, including, in particular, the fact that both sets of counsel operate an office from that Washington, D.C. and that the majority of the participants in these proceedings are based in the Americas.
10. The Tribunal therefore fixes the venue of the Oral Hearing on Jurisdiction and Liability in Washington, D.C., USA.

11. The Tribunal emphasizes that the choice of the venue for the hearing is made as a matter of convenience. This choice does not in any way affect the decision relating to the place of the arbitration, which remains Paris, France. It does not prejudice the choice of venues for further hearings, should such hearings become necessary.

Place of Arbitration: Paris, France



Dr. Stanimir A. Alexandrov
(Presiding Arbitrator)

On behalf of the Tribunal

Annex 1: Procedural Calendar for the Phase on Jurisdiction and Liability

Description	By	Days	Dates
<i>Initial Phase on Jurisdiction and Liability</i>			
Step 1: Statement of Claim, with any Witness Statement(s) and Expert Report(s)	Claimants	120 days from Decision on the Respondent's Application for Termination, Trifurcation and Security for Costs	November 6, 2019
Step 2: Statement of Defense, including any objection to the Tribunal's jurisdiction and/or counterclaim, with any Witness Statement(s) and Expert Report(s)	Respondent	120 days from Step 1	March 5, 2020
<i>Document Production Phase on Jurisdiction and Liability</i>			
Step 3: Request to Produce Documents	Claimants and Respondent	21 days from Step 2	March 26, 2020
Step 4: Production of Non-Objected Documents and Objections to Produce	Claimants and Respondent	32 days from Step 3	April 27, 2020
Step 5: Response to Objections to Produce and reasoned applications for an order on production of documents in the form of a Redfern Schedule (Annex 2 of Procedural Order No. 1)	Claimants and Respondent	14 days from Step 4	May 11, 2020
Step 6: Decision on Request to Produce Documents	Tribunal	14 days from Step 5	May 25, 2020
Step 7: Production as ordered	Claimants and Respondent	30 days from Step 6	June 24, 2020

Description	By	Days	Dates
<i>Written Pleadings on Jurisdiction and Liability</i>			
Step 8: Reply with any Reply Witness Statement(s) and Expert Report(s)	Claimants	90 days from Step 7	September 22, 2020
Step 9: Rejoinder with any Rejoinder Witness Statement(s) and Expert Report(s)	Respondent	90 days from Step 8	December 21, 2020
Step 10: Notification of witnesses and experts for the examination at the Hearing	Claimants and Respondent	30 days from Step 9	January 20, 2021
<i>Oral Pleadings on Jurisdiction and Liability</i>			
Step 11: Pre-hearing Conference	All	14 days from Step 10	February 3, 2021
Step 12: Oral Hearing on Jurisdiction and Liability	All	At least 21 days from Step 11	May 17-21, 2021
<i>Post-Hearing Pleadings on Jurisdiction and Liability</i>			
Step 13: Post-Hearing Briefs (TBD)	Claimants and Respondent	TBD	TBD
Step 14: Award on Jurisdiction and Liability	Tribunal	TBD	TBD

[***the schedule for the next phase of the proceedings shall be fixed, if necessary, once the Tribunal issues its Award on Jurisdiction and Liability***]