

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Continental Gold Inc.

v.

Republic of Colombia

(ICSID Case No. ARB/24/25)

PROCEDURAL ORDER NO. 7

Members of the Tribunal

Prof. Dr. Klaus Sachs, President of the Tribunal

Ms. Elisabeth Eljuri, Arbitrator

Ms. Loretta Malintoppi, Arbitrator

Assistant to the Tribunal

Ms. Kira Schuck

Secretary of the Tribunal

Ms. Patricia Rodríguez Martín

22 April 2026

TABLE OF CONTENTS

I. INTRODUCTION	3
II. PROCEDURAL BACKGROUND.....	4
III. THE PARTIES' POSITIONS	7
A. RESPONDENT'S POSITION.....	7
B. CLAIMANT'S POSITION	9
IV. THE TRIBUNAL'S ANALYSIS	11
A. RESPONDENT'S REQUEST FOR LEAVE TO FILE AN APPLICATION FOR SUMMARY DISMISSAL WITH A SEPARATE BRIEFING SCHEDULE	11
1. <i>Procedural Order No. 5 as a Legal Basis for the Requests</i>	12
2. <i>Application of the FTA and the ICSID Arbitration Rules</i>	13
B. RESPONDENT'S REQUEST FOR STAY OF THE MAIN PROCEEDINGS	16
C. REVISED PROCEDURAL CALENDAR.....	16
V. ORDER.....	16

I. INTRODUCTION

1. This Procedural Order No. 7 is issued in the arbitration between Continental Gold Inc. (“**Claimant**”) and the Republic of Colombia (“**Respondent**”) (together with Claimant, the “**Parties**”), pursuant to the Free Trade Agreement between Canada and the Republic of Colombia signed on 21 November 2008 and entered into force on 15 August 2011 (the “**Treaty**” or “**FTA**”), and the Arbitration Rules of the International Centre for Settlement of Investment Disputes in force as of 1 July 2022 (“**ICSID Arbitration Rules**”).
2. Respondent requests leave to file an application for summary dismissal of the arbitration. This request rests on allegations of fraud on the Tribunal, abuse of process, and denial of benefits, based on disclosures made in the Initial Public offering (“**IPO**”) of Zijin Gold International Company Limited (“**ZGI**”), which Respondent alleges directly contradict the case presented by Claimant in these proceedings.
3. In relation to these allegations, the Parties are also in dispute about the confidentiality of certain information contained in Claimant's Updated Memorial and Procedural Order No. 6 and have made several requests concerning the redaction of such information.
4. The scope of this Order is limited to the Tribunal's decisions on the following requests: (i) Respondent's request for leave to file an application for summary dismissal and the associated requests that the Tribunal set a schedule for the briefing and consideration of that application; (ii) Respondent's request to suspend the main proceedings as well as Claimant's associated request that the Tribunal confirm that the arbitration shall proceed in accordance with the revised procedural calendar of 4 September 2025 (“**Procedural Calendar**”), save for a two-week extension of the respective deadlines for the Parties to file their Counter-Memorial and Reply on the Merits. The Tribunal decides on these requests in this Order to allow for a more timely decision in light of the upcoming deadline for the submission of Respondent's Counter-Memorial. The Tribunal will decide on all further requests of the Parties in due course to be issued in due course after the Tribunal has received the Parties' Transparency Schedule on the disputed redactions to Procedural Order No. 6.
5. In this Order, following a summary of the relevant procedural background (at **II.**) and the Parties' positions (at **III.**), the Tribunal provides reasoned ruling for its decision on these requests (at **IV.** and **V.**).

II. PROCEDURAL BACKGROUND

6. On 10 July 2025, Claimant submitted its Memorial in these arbitration proceedings. With it, Claimant informed the Tribunal that its Memorial did not include its submissions and evidence on damages and requested bifurcation of the proceedings into two phases with a first phase dedicated to jurisdiction and liability, and a second phase dedicated to quantum.
7. By letter dated 18 July 2025, Respondent filed its comments to Claimant's request for bifurcation and requested, *inter alia*, that the Tribunal order Claimant to submit its full case on damages and causation. Following Claimant's response of 25 July 2025, Respondent replied by letter dated 1 August 2025 and requested, *inter alia*, as follows:

That the Tribunal find that Claimant's merits case is not ripe for adjudication. Colombia reserves the right to seek summary dismissal on that basis.

8. On 18 August 2025, the Tribunal issued its decision on the Parties' requests in Procedural Order No. 5. The Tribunal denied Claimant's bifurcation request and ordered Claimant to submit an updated Memorial with a pleading on damages and causation. With regard to Respondent's request to find that Claimant's case was not ripe for adjudication, the Tribunal

consider[ed] that a decision on this request – should Respondent develop it in detail – may be deferred until a later stage of the proceedings.¹

9. On 20 October 2025, Claimant submitted its Updated Memorial which included its pleading on damages and causation.
10. Following Claimant's request to redact information contained in the Updated Memorial and Respondent's opposition to certain redactions, the Parties submitted a joint Transparency Schedule for the Tribunal's determination of the contested redactions on 12 January 2025.
11. On 28 January 2026, the Tribunal issued Procedural Order No. 6 with its decision on the disputed redactions to Claimant's Updated Memorial and the Transparency Schedule attached to it as Annex A. In that Order, the Tribunal granted the redaction of specific damages figures and damages-related information as well as detailed operational and security-related information. It denied Claimant's request for

¹ Procedural Order No. 5, para. 73.

redaction with regard to general information that had already been available to the public.

12. On 27 February 2026, Claimant submitted a redacted version of Procedural Order No. 6, indicating that it wished to designate information contained in that Order as confidential. On 2 March 2026, the International Centre for Settlement of Investment Disputes (“**ICSID**” or the “**Centre**”) informed Respondent that it could submit any objections to the proposed redactions by 16 March 2026 in accordance with Procedural Order No. 2.

13. On 13 March 2026, by letter dated 12 March 2026, Respondent requested

*leave pursuant to Procedural Order No. 5 to file an application for summary dismissal of the Arbitration on grounds of fraud on the Tribunal, abuse of process, and denial of benefits. (“**Respondent’s Request No. 1**”)*

14. Respondent further requested that the Tribunal

*i. Set a schedule for the briefing and consideration of Respondent’s Application for Summary Dismissal of the Arbitration (“**Respondent’s Request No. 2**”); and*

*ii. Suspend the main proceeding of the Arbitration until arguments and counterarguments concerning Respondent’s Application for Summary Dismissal of Claimant’s claims can be heard. (“**Respondent’s Request No. 3**”)*

15. To its letter, Respondent appended an indicative briefing schedule providing for two rounds of submissions and a hearing on Summary Dismissal. Respondent further submitted Annexes A to C to its letter, including a Declaration of Mr. Nathan Paul Wilmore Dentice of 13 March 2026 on Hong Kong securities laws and regulations as Annex B.

16. On 16 March 2026, the Tribunal invited Claimant to comment on Respondent’s submission by 26 March 2026.

17. On that same date, Respondent submitted its objections to Claimant’s proposed redactions to Procedural Order No. 6. In its submission, Respondent further requested

the reconsideration of the redactions granted to Claimant’s Updated Memorial in PO 6.

and

that the Tribunal release the Parties from the procedural requirements set forth in PO 2 paragraphs 25 and 26 (i.e., Party conferral and Transparency Schedule submission), unless and until the Tribunal deems such procedure as appropriate after it has decided on Respondent's Request of 12 March 2026.

18. On 17 March 2026, the Tribunal invited Claimant to submit its observations on both of Respondent's submissions of 12 and 16 March 2026 jointly on 26 March 2026 and informed the Parties of the suspension of the requirement that the Parties confer to reach an agreement on the disputed redactions under para. 25 of Procedural Order No. 2.

19. By letter dated 26 March 2026 together with Annexes 1 to 4 to it, Claimant submitted its comments on Respondent's submissions and, expressly reserving all of its rights, requested that the Tribunal

a) Dismiss Colombia's Request in its entirety;

b) Reject Colombia's 16 March 2026 request for reconsideration of PO6 and adopt Claimant's proposed redactions in accordance with PO6;

c) Confirm that the arbitration shall proceed in accordance with the revised procedural calendar of 4 September 2025; and

d) Award Claimant all costs associated with addressing the Request and the 16 March 2026 letter.

20. On 16 April 2026, the Tribunal directed the Parties to submit a Transparency Schedule on the disputed redactions to Procedural Order No. 6 by 23 April 2026, allowing the Parties to make reference to their submissions of 12, 16 and 26 March 2026.

21. By email dated 17 April 2026, Respondent requested that the Tribunal grant a 30-day extension of the deadline for filing its Counter-Memorial from the date of the Tribunal's decision on Respondent's Requests, or such other date as the Tribunal may determine, in the event the Tribunal denies its request for leave to file an Application for Summary Dismissal.

22. On 20 April 2026, the Claimant, upon the Tribunal's invitation, responded to the Respondent's extension request. While objecting to a 30-day extension, the Claimant indicated it would not oppose a two-week extension for the Respondent to file its Counter-Memorial, subject to a corresponding two-week extension for the Claimant to file its Reply on the Merits and Counter-Memorial on Jurisdiction.

III. THE PARTIES' POSITIONS

A. RESPONDENT'S POSITION

23. Respondent seeks the Tribunal's leave to file an application for summary dismissal and that the Tribunal stay the main proceedings pending resolution of that application. For its request, Respondent relies on the Tribunal's decision in Procedural Order No. 5 and argues that its allegations of fraud on the Tribunal, abuse of process, and denial of benefits warrant a request for summary dismissal.² These allegations are based on the claim that the prospectus ZGI published in conjunction with its IPO (the "**IPO Prospectus**") contains various statements regarding Claimant's business and the Buriticá Mine (the "**Mine**") which directly contradict Claimant's statements and arguments in this arbitration.³
24. According to Respondent, the IPO Prospectus reveals information that shows (i) that Claimant's claim is not ripe for adjudication, absent a showing of causation and damages, and (ii) that Claimant's claims are fraudulent, warranting scrutiny and denial of benefits.
25. Against the same background, Respondent opposes Claimant's proposed redactions to Procedural Order No. 6 and requests reconsideration of that Order, arguing that the IPO Prospectus reveals information that Claimant has falsely alleged as confidential.⁴ As outlined above, the Tribunal will consider and decide on these requests separately.
- (i) Claimant's case is not ripe for adjudication*
26. According to Respondent, the IPO Prospectus shows that Claimant's claims in this arbitration are fraudulent and its damages representation unsubstantiated.
27. Respondent refers to its submission of 18 July 2025, in which it argued that under the FTA, an investor may only submit a claim to arbitration if it "has incurred loss or damage by reason of, or arising out of, that breach".⁵ Respondent reiterates its view that, absent a showing of causation and damages, Claimant's claim is inadmissible and the Tribunal has no jurisdiction.⁶
28. Respondent submits that, whereas ZGI is not a direct parent company of Claimant, Claimant and ZGI are both owned by Zijin Mining Group ("**Zijin**") and, further to

² Respondent's letter dated 12 March 2026, p. 1.

³ Respondent's letter dated 12 March 2026, p. 2.

⁴ Respondent's letter dated 12 March 2026, pp. 10-12.

⁵ Respondent's letter dated 18 July 2025, p. 2.

⁶ Respondent's letter dated 12 March 2026, p. 2.

a contractual arrangement within the group, ZGI has full operational control of Claimant.⁷ Under the Colombia Entrustment Arrangement (CEA), Respondent states, ZGI is authorized to make business decisions and is entrusted with the exclusive management and operation of the Mine.⁸

29. With reference to Mr. Dentice's Declaration, Respondent concludes that, based on ZGI's responsibilities for Claimant's business, Claimant's alleged loss of control of substantial parts of the Mine due to illegal mining and its associated damages claim in this arbitration would be of material interest to ZGI's investors. ZGI was therefore obliged under Hong Kong securities law to disclose Claimant's material financial information, including its alleged losses resulting from illegal mining, as its own.⁹
30. However, Respondent notes, the IPO Prospectus does not contain any corroboration of Claimant's damages claims raised in this arbitration, implicating securities fraud on the side of ZGI and fraudulent conduct of Claimant.¹⁰ According to Respondent, the IPO Prospectus shows that Claimant's damages representation is not credible and therefore remains unsubstantiated. Respondent reasons that, therefore, it should be allowed to file an application for summary dismissal for inadmissibility of the claim and lack of jurisdiction.¹¹

(ii) Claimant's fraud on the Tribunal and Abuse of process warrant scrutiny

31. Respondent further argues that the IPO record evidences misrepresentations and procedural misconduct by Claimant that warrant summary dismissal and, alternatively, denial of treaty benefits.
32. Contending that ZGI's IPO Prospectus and supporting disclosures, including the Competent Person's Report by SRK Consulting, were prepared under stringent verification and liability frameworks applicable to Hong Kong stock listings, Respondent elaborates on what it characterizes as various material inconsistencies between the IPO record and Claimant's submissions in this arbitration and presents a tabular comparison of allegedly contradictory statements.¹²
33. In addition, Respondent alleges procedural misconduct on the part of Claimant relating to Claimant's assertion of the impossibility of a site visit. Respondent points out that SKR Consulting bases its Competent Person's Report on a site visit

⁷ Respondent's letter dated 12 March 2026, p. 5.

⁸ Respondent's letter dated 12 March 2026, p. 5.

⁹ Respondent's letter dated 12 March 2026, pp. 2-3, 6.

¹⁰ Respondent's letter dated 12 March 2026, p. 3.

¹¹ Respondent's letter dated 12 March 2026, pp. 3-4.

¹² Respondent's letter dated 12 March 2026, pp. 6-7.

conducted between 15 and 20 May 2025, whereas Claimant had requested an extension of time to file its Memorial at the same time, on 16 May 2025, on the grounds that a recent blockade of the Mine had allegedly prevented access to the Mine site.¹³

34. Respondent further alleges procedural misconduct on the grounds of Claimant's non-disclosure of Zijin's corporate restructuring and implementation of the CEA, under which ZGI has operational control of Claimant while Claimant's Canadian ownership structure is formally kept in place. According to Respondent, this also warrants denial of benefits.¹⁴
35. Finally, Respondent contends that its concerns for abuse of process are sufficiently serious that the Tribunal should suspend the proceedings while resolving these objections. To this end, Respondent emphasizes the Tribunal's broad discretion to grant necessary preventative measure, including a stay of the proceedings.¹⁵

B. CLAIMANT'S POSITION

36. Claimant opposes Respondent's requests as untimely, unfounded, and outside the provisions of the Treaty and ICSID Arbitration Rules.
37. First, Claimant argues that summary dismissal is unavailable at this stage of the proceedings under the FTA and the ICSID Arbitration Rules.¹⁶ Claimant points out that the only provision under the FTA for early dispositive relief is contained in its Article 829. As opposed to other investment treaties signed by Canada or Colombia, the FTA does not expressly include expedited or summary dismissal mechanisms with defined timelines and standards of review and a mandatory suspension of the merits, which Claimant asserts reflects a deliberate drafting choice.¹⁷
38. Claimant further contends that early dismissal on the ground that a claim is "manifestly without legal merit" under ICSID Arbitration Rule 41 is unavailable since such an objection had to be filed within 45 days after the Tribunal was constituted on 8 January 2025.¹⁸
39. Claimant concludes that Respondent's request for leave to file an application for summary dismissal thus constitutes an untimely request for bifurcation of the proceedings.¹⁹ Claimant points out that, albeit such request would have been due

¹³ Respondent's letter dated 12 March 2026, pp. 9-10.

¹⁴ Respondent's letter dated 12 March 2026, p. 12.

¹⁵ Respondent's letter dated 12 March 2026, pp. 13-14.

¹⁶ Claimant's letter dated 26 March 2026, pp. 3-4.

¹⁷ Claimant's letter dated 26 March 2026, p. 4.

¹⁸ Claimant's letter dated 26 March 2026, p. 4.

¹⁹ Claimant's letter dated 26 March 2026, p. 5.

on 6 November 2025 under the Procedural Calendar of 4 September 2025, Respondent neither filed a request for bifurcation within that deadline, nor could it invoke the exception for newly discovered facts under ICSID Arbitration Rule 44(1)(a)(iii) as the facts underlying its requests were public since 19 September 2025 when the IPO Prospectus was published.²⁰

40. Claimant further rejects Respondent's reliance on Procedural Order No. 5, arguing that in that Order, the Tribunal merely deferred its decision on Respondent's narrow ripeness argument and preserved its ability to develop that argument later, but did not create an open-ended right to seek bifurcation, summary dismissal, or new allegations of fraud and denial of benefits at any time of Respondent's choice.²¹
41. According to Claimant, Respondent's attempt to bifurcate is also unmeritorious as neither of its objections would satisfy the standard for bifurcation under ICSID Arbitration Rule 44(2). In particular, Claimant alleges that Respondent's allegations of fraud and abuse of process are inextricably intertwined with the merits of the case.²² As a result, a separate phase on those issues would duplicate the evidentiary inquiry and generate a parallel phase of pleadings, a hearing, and deliberation, adding cost and delay to the proceedings.²³
42. On the substance of Respondent's allegations of fraud and misrepresentation, Claimant argues that Respondent's reliance on ZGI's IPO Prospectus mischaracterizes Claimant's damages assessment. [REDACTED]
[REDACTED]
[REDACTED], meaning those reserves were already lost prior to the IPO valuation date of 30 June 2025 and therefore did not require disclosure in the IPO Prospectus of 2025.²⁴ Claimant adds that any eventual award in this arbitration would represent a contingent future gain, not a future loss, on the part of Claimant and that Hong Kong securities law did not require ZGI to disclose such contingent gains in its IPO materials.²⁵
43. Furthermore, Claimant rejects Respondent's assertion of prejudice from having to continue the case under the Procedural Calendar as self-inflicted, noting that Respondent chose to file these requests less than six weeks before its Counter-

²⁰ Claimant's letter dated 26 March 2026, p. 5.

²¹ Claimant's letter dated 26 March 2026, p. 6.

²² Claimant's letter dated 26 March 2026, pp. 6, 9-10.

²³ Claimant's letter dated 26 March 2026, p. 6.

²⁴ Claimant's letter dated 26 March 2026, p. 8.

²⁵ Claimant's letter dated 26 March 2026, p. 9.

Memorial is due. On the contrary, it would be Claimant who would suffer prejudice from any delay of the proceedings as the illegal occupation of the mine continues.²⁶

44. For the same reason, Claimant opposes Respondent's request for a stay of the proceedings, elaborating that, in addition, such stay could be based neither on the suspensions mechanisms of the FTA nor on ICSID Arbitration Rule 47(1)(a) or investment arbitration case law.²⁷
45. Further to its arguments outlined above, Claimant opposes Respondent's request for reconsideration of Procedural Order No. 6 and contends that it should immediately be awarded all costs associated with Respondent's requests.²⁸ The Tribunal will address these claims when rendering its decision on the Parties' remaining requests separately.

IV. THE TRIBUNAL'S ANALYSIS

46. The Tribunal has thoroughly reviewed and considered all arguments advanced by the Parties. The absence of express reference to certain arguments in this Procedural Order should not be interpreted as an indication that they have not been considered.
47. In its analysis below, the Tribunal first addresses Respondent's Requests Nos. 1 and 2 for leave to file an application for summary dismissal with a separate briefing schedule (**A.**). It then addresses Respondent's Request No. 3 for stay of the main proceedings (**B.**) and Claimant's Request lit. c) for confirmation that the arbitration shall proceed in accordance with the Revised Procedural Calendar of 4 September 2025 with the limited grant of a two-week extension of the respective deadlines to file the Respondent's Counter-Memorial and the Claimant's Reply on the Merits and Counter-Memorial on Jurisdiction (**C.**). The Tribunal reserves its decision on the remainder of the Parties' requests.

A. RESPONDENT'S REQUEST FOR LEAVE TO FILE AN APPLICATION FOR SUMMARY DISMISSAL WITH A SEPARATE BRIEFING SCHEDULE

48. Due to the substantive connection of Respondent's Requests Nos. 1 and 2, the Tribunal decides on these Requests jointly in this section.
49. At the outset, the Tribunal notes that an application for summary dismissal, together with a separate summary dismissal procedure including dedicated Party submissions and a hearing, as requested by Respondent, would constitute a

²⁶ Claimant's letter dated 26 March 2026, p. 10.

²⁷ Claimant's letter dated 26 March 2026, pp. 12-13.

²⁸ Claimant's letter dated 26 March 2026, pp. 10-12, 14.

significant deviation from the Procedural Calendar agreed upon by the Parties and forming the basis for the procedure of this arbitration.

50. The Tribunal further notes that the FTA and the ICSID Arbitration Rules provide a broad procedural framework as to the key aspects of these proceedings, which the Tribunal must consider in exercising its procedural discretion.
51. The Tribunal is therefore first compelled to examine the legal basis on which a summary dismissal procedure could be introduced.

1. Procedural Order No. 5 as a Legal Basis for the Requests

52. Respondent relies solely on Procedural Order No. 5, issued by the Tribunal on 18 August 2025, as the legal basis for the procedural admissibility of its Requests Nos. 1 and 2.²⁹
53. In Procedural Order No. 5, the Tribunal found that a decision on Respondent's request to find that Claimant's case was not ripe for adjudication for lack of a sufficient pleading on damages and causation would be deferred until a later stage of the proceedings, reserving Respondent's right to develop that argument in detail.³⁰
54. By virtue of that ruling, the Tribunal did not grant Respondent the procedural right to seek summary dismissal at any stage of the proceedings, irrespective of the Procedural Calendar and the provisions of the ICSID Arbitration Rules and the FTA. It merely decided that Respondent would be free to fully develop its argument at the appropriate stage of the proceedings.
55. Consequently, the Tribunal's decision in Procedural Order No. 5 does not establish procedural admissibility of a summary dismissal application.
56. The Tribunal observes that the current situation differs from the procedural situation under which Procedural Order No. 5 was issued. The Tribunal rendered its decision in Procedural Order No. 5 on the basis that Claimant's Memorial did not include its pleading on damages, leading the Tribunal to find that a party's liberty to plead its own case is curtailed in situations where a party's pleading is indispensable for either the other party to be able to make its case or for the Tribunal to be able to establish its jurisdiction to proceed to the merits.³¹ Claimant has, by now, submitted its case on damages and causation with its Updated Memorial, and, consequently,

²⁹ Respondent's letter dated 12 March 2026, pp. 1-2, 14.

³⁰ Procedural Order No. 5, para. 73.

³¹ Procedural Order No. 5, para. 41.

Respondent's challenges concern the substantive credibility of Claimant's submissions. The Tribunal's considerations on the omission of a *prima facie* pleading thus do not apply to the situation underlying this Procedural Order No. 7.

57. Moreover, the Tribunal notes that Respondent's request for leave to file an application for summary dismissal rests on grounds of fraud on the Tribunal, abuse of process, and denial of benefits. Respondent argues that Claimant's and ZGI's fraudulent conduct also implies that Claimant has not presented a credible damages case. Under this argument, however, the purported lack of ripeness for adjudication constitutes only a secondary effect of the alleged fraudulent conduct on an entirely different factual basis compared to the situation underlying Procedural Order No. 5, when Claimant itself declared that its Memorial did not include its detailed pleading on damages.

2. Application of the FTA and the ICSID Arbitration Rules

58. Since Respondent's Requests cannot be based on Procedural Order No. 5, the Tribunal turns to the provisions of the FTA and the ICSID Arbitration Rules. The Tribunal notes that neither the FTA nor the ICSID Arbitration Rules contain an explicit legal mechanism for a summary dismissal procedure at this stage of the proceedings.
59. Article 829 of the FTA and ICSID Arbitration Rules 41 et seq. contain legal mechanisms for early dismissal, as pointed out by Claimant.³²
60. Article 829 of the FTA refers to the applicable arbitration rules, *i.e.*, for this arbitration, the ICSID Arbitration Rules, for the procedure for preliminary objections, providing as follows:

Article 829: Preliminary Objections

- 1. The Tribunal shall have the power to rule on preliminary objections to jurisdiction and admissibility.*
- 2. Any preliminary objection that the dispute should not be admitted or registered, is not within the jurisdiction of the Tribunal or, for other reasons, is not within the competence of the Tribunal, shall be made in accordance with the applicable arbitration rules as early as possible.*

³² Claimant's letter dated 26 March 2026, pp. 3-5.

61. The FTA does not contain any other mechanism for expedited or summary dismissal.³³
62. ICSID Arbitration Rule 41 provides for dismissal for manifest lack of legal merit, ICSID Arbitration Rules 44 and 45 address preliminary objections with or without bifurcation.
63. Respondent requests that the Tribunal adopt a separate briefing schedule for Party submissions and a hearing on its application for summary dismissal, during which the main proceedings would be suspended.³⁴ The procedural implications, should the Tribunal grant Respondent's Requests, would be equivalent to those resulting from bifurcation of the proceedings.
64. ICSID Arbitration Rules 42(2), (5) and 44(3) stipulate that the Tribunal, if it orders bifurcation of the proceedings, shall suspend the proceedings and, if the request for bifurcation relates to a preliminary objection, fix time limits for the Parties' submissions and issue a decision or Award on the preliminary objections within a certain period of time. Accordingly, Scenario 3 of the Parties' agreed upon Procedural Calendar, which would have been applicable if Respondent had requested bifurcation of the proceedings and that request had been granted by the Tribunal, provides that a further procedural calendar would be set for the first phase of the proceedings and, depending on its outcome, for the second phase of this arbitration, if any.
65. By contrast, ICSID Arbitration Rule 45 provides that a preliminary objection without a request for bifurcation shall be joined to the merits. Under the applicable procedure, the Tribunal only rules on preliminary objections in its final Award, once all submissions have been filed (ICSID Arbitration Rule 45(d)). By contrast, Respondent has explicitly requested summary dismissal at an earlier, separate stage of the proceedings. Accordingly, Respondent's Requests cannot be interpreted as requests to file a preliminary objection, since no request for bifurcation was made alongside them.
66. Furthermore, the Tribunal is satisfied that Respondent's Requests cannot be characterized as an objection under ICSID Arbitration Rule 41 that Claimant's claim is manifestly without legal merit since the time limit of 45 days after the constitution of the Tribunal for such objection has obviously lapsed.

³³ See also Claimant's letter dated 26 March 2026, pp. 3-4.

³⁴ Respondent's letter dated 12 March 2026, pp. 14-15.

67. Within the legal framework of the FTA and the ICSID Arbitration Rules, Respondent's Requests can therefore be interpreted most appropriately as a request for bifurcation.³⁵
68. The Tribunal acknowledges, however, that the time limit for Respondent to file a request for bifurcation expired on 6 November 2025 according to the Procedural Calendar dated 4 September 2025 agreed upon by the Parties.
69. Respondent, who does not present its Requests as requests for bifurcation, does not otherwise invoke any exception to justify renewal of that time limit. The Tribunal takes into account that ICSID Arbitration Rule 44(1)(a)(iii) allows a Party that was not aware of the facts on which its preliminary objection is based at the time the request for bifurcation had to be filed to request bifurcation as soon as possible after these facts become known to it.³⁶ It is, however, undisputed between the Parties that the IPO Prospectus, which provides the factual basis for Respondent's Requests, was published on 19 September 2025,³⁷ *i.e.*, six weeks prior to the deadline for a bifurcation request, and has been publicly available since. Respondent has not presented any reason why it did not raise its Requests before and, in particular, why it did not request bifurcation of the proceedings in line with the Procedural Calendar.
70. In any case, the Tribunal is not convinced that Respondent's Requests would satisfy the requirements for bifurcation under ICSID Arbitration Rule 44(2), pursuant to which the Tribunal shall consider all relevant circumstances in determining whether to bifurcate, including implications on time and cost of the proceedings and whether the preliminary objections and the merits are inextricably intertwined.
71. In particular, the Tribunal considers that the allegations raised by Respondent are sufficiently intertwined with the merits of the dispute as to undermine any practicality of bifurcation. A decision on the claims that provide the basis of Respondent's Requests would require the Tribunal to evaluate in detail the situation at the Mine, including Claimant's control of certain sections, and the damages incurred by Claimant – matters that would entail examination of factual and legal evidence largely relevant for the jurisdictional and merits stage of the proceedings.³⁸ Respondent itself admits that the alleged misrepresentations “*affect most directly Claimant's case on damages, but are intertwined with the entirety of its arguments on the merits and its jurisdictions pretensions.*”³⁹ The Tribunal

³⁵ See also Claimant's letter dated 26 March 2026, p. 5.

³⁶ See also Claimant's letter dated 26 March 2026, p. 5.

³⁷ Respondent's letter dated 12 March 2026, p. 2; Claimant's letter dated 26 March 2026, p. 5.

³⁸ See also Claimant's letter dated 26 March 2026, p. 6.

³⁹ Respondent's letter dated 16 March 2026, p. 13.

considers that an additional phase of the proceedings in these circumstances would be impractical and could lead to an increase in cost and time of the proceedings.⁴⁰ It would thus not be in the interest of procedural economy.

72. At the same time, there would be no procedural unfairness since Respondent will have sufficient opportunity to address all of its claims in the further course of the proceedings, including together with its Counter-Memorial.
73. Finally, the Tribunal considers that the initiation of a separate phase of the proceedings, amounting to a *de facto* bifurcation of the proceedings, would disrupt the timeline of the Procedural Calendar and undermine the procedural equality of the Parties.
74. This leads the Tribunal to the conclusion that, under the provisions of the FTA and the ICSID Arbitration Rules, a separate procedure on summary dismissal, as requested by Respondent, is not warranted and that the arbitration shall proceed with the existing Procedural Calendar. The application for summary dismissal is thus not granted.

B. RESPONDENT’S REQUEST FOR STAY OF THE MAIN PROCEEDINGS

75. In light of the Tribunal’s decision on Respondent’s Requests Nos. 1 and 2, Respondent’s Request No. 3 for suspension of the main proceeding is rendered moot.

C. REVISED PROCEDURAL CALENDAR

76. In line with the reasoning set out above and having considered the Parties’ submissions on the extensions of the procedural deadlines, the Tribunal grants a two-week extension for the Respondent to file its Counter-Memorial and for the Claimant to file its Reply on the Merits and Counter-Memorial on Jurisdiction, with all other deadlines remaining unchanged. A revised Procedural Calendar is attached as Annex A.
77. The Tribunal reiterates that Respondent may address all substantive issues raised in its letter dated 12 March 2026 at the appropriate stage of the proceedings, if it so wishes.

V. ORDER

78. For foregoing reasons:

⁴⁰ Claimant’s letter dated 26 March 2026, p. 6.

- a) The Tribunal denies Respondent's Requests Nos. 1, 2, and 3.
- b) The Tribunal adopts the revised Procedural Calendar attached as Annex A to this Procedural Order.
- c) The Tribunal defers its decision on the remainder of the Parties' requests to be issued separately in due course.

On behalf of the Tribunal,

[Signed]

Professor Dr. Klaus Sachs
President of the Tribunal
Date: 22 April 2026

ANNEX A
REVISED PROCEDURAL CALENDAR
Adopted on 22 April 2026

Description	By	Days	Dates
<i>Initial Phase</i>			
First Procedural Meeting	All		5 March 2025
Memorial, with any Witness Statement(s) and Expert Report(s)	Claimant	127 (377 days after the RfA)	10 July 2025
Claimant's Updated Memorial	Claimant		17 October 2025
Counter-Memorial, including any objection to the Tribunal's jurisdiction and/or counterclaim, with any Witness Statement(s) and Expert Report(s)	Respondent	203 (from Updated Memorial)	8 May 2026
<i>Document Production Phase</i>			
Request to Produce	Claimant and Respondent	14	22 May 2026
Production of Non-Objected Documents and Objections to Produce	Claimant and Respondent	21	12 June 2026
Response to Objections to Produce and reasoned applications for an order on production of documents in the form of a Stern Schedule (Annex C)	Claimant and Respondent	21	3 July 2026
Decision on Request to Produce	Tribunal	21	24 July 2026
Production as ordered	Claimant and Respondent	21	14 August 2026
<i>Additional Written Pleadings</i>			
Reply with any Reply Witness Statement(s) and Expert Report(s)	Claimant	81	3 November 2026

Continental Gold Inc. v. Republic of Colombia
(ICSID Case No. ARB/24/25)

Procedural Order No. 7

Rejoinder with any Rejoinder Witness Statement(s) and Expert Report(s)	Respondent	106	17 February 2027
Rejoinder on Jurisdictional Objections with any Rejoinder Witness Statement(s) and Expert Report(s) (if applicable)	Claimant	45	5 April 2027
<i>Oral Pleading Phase</i>			
Notification of witnesses and experts for the examination at the Hearing	Claimant and Respondent	Six weeks prior to the Hearing	
Submission of a joint proposal on a daily schedule for the Hearing	Claimant and Respondent	Five weeks prior to the Hearing	
Pre-hearing organizational conference	All	Four weeks prior to the Hearing	
Hearing	All		21 June - 2 July 2027, (3–4 July 2027 in reserve).