

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER THE AGREEMENT ON RECIPROCAL
PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE CARIBBEAN COMMUNITY AND
THE DOMINICAN REPUBLIC AND THE UNCITRAL ARBITRATION RULES (1976)**

MICHAEL ANTHONY LEE-CHIN

v.

THE DOMINICAN REPUBLIC

(ICSID Case. No. UNCT/18/3)

**PROCEDURAL ORDER No. 8
(HEARING ORGANIZATION)**

Members of the Tribunal

Prof. Diego P. Fernández Arroyo, Presiding Arbitrator
Prof. Christian Leathley, Arbitrator
Prof. Marcelo Kohen, Arbitrator

Secretary of the Tribunal

Ms. Marisa Planells-Valero

20 December 2021

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I. INTRODUCTION

1. Pursuant to Section 18.1 of Procedural Order No. 1, a pre-hearing organizational meeting between the Parties and the Tribunal was held by video conference on 14 December 2021 (the “**Pre-Hearing Call**” or “**PHC**”). Participating in the video conference were:

Arbitral Tribunal:

Prof. Diego P. Fernández Arroyo, President of the Tribunal
Prof. Christian Leathley, Arbitrator
Prof. Marcelo G. Kohen, Arbitrator

ICSID Secretariat:

Ms. Marisa Planells-Valero, Secretary of the Tribunal

On behalf of the Claimant:

Richard C. Lorenzo, Hogan Lovells US LLP
Mark Cheskin, Hogan Lovells US LLP
Maria Eugenia Ramirez, Hogan Lovells US LLP
William Homer, Hogan Lovells US LLP
Maria Lucia Echandia, Hogan Lovells US LLP

On behalf of the Respondent:

Claudia Frutos-Peterson, Curtis, Mallet-Prevost, Colt & Mosle LLP
Fernando Tupa, Curtis, Mallet-Prevost, Colt & Mosle LLP
Dori Yoldi, Curtis, Mallet-Prevost, Colt & Mosle LLP
Belén Ibañez, Curtis, Mallet-Prevost, Colt & Mosle LLP
Leidylin Contreras, Directora de Prevención y Solución de Controversias del Ministerio de Industria, Comercio y Mipymes
Ninoska Coiscou, Analista de Prevención y Solución de Controversias del Ministerio de Industria, Comercio y Mipymes
Escipión Oliveira, Auxiliar de Prevención y Solución de Controversias del Ministerio de Industria, Comercio y Mipymes
Rosa Otero, Directora de Relaciones Internacionales del Ministerio de Medio Ambiente y Recursos Naturales
Johanna Montero, Encargada de Comercio y Ambiente del Ministerio de Medio Ambiente y Medio Ambiente.

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Carlos Guzmán, Alcalde del Ayuntamiento de Santo Domingo Norte
Marcelo Heredia, Consultor Jurídico del Ayuntamiento de Santo Domingo Norte
José Antonio Cipión, Subconsultor Jurídico del Ayuntamiento de Santo Domingo Norte

2. During the Pre-Hearing Call, the Parties and the Tribunal discussed the draft agenda for the Pre-Hearing Call circulated to the Parties on 3 December 2021, and the Parties joint statement of 10 December 2021 advising the Tribunal of any agreements reached on the agenda open items, as well as their respective positions where no agreement was reached.
3. An audio recording of the Pre-Hearing Call was made and deposited in the archives of ICSID. The recording was made available to the Members of the Tribunal and the Parties on 16 December 2021. Further communications from the Parties were received also on 16 December 2021.
4. Having considered the Parties' positions, this Order sets out the Procedural Rules that the Parties have agreed upon and/or the Tribunal has determined will govern the conduct of the Hearing.

II. ORGANIZATION OF THE HEARING

A. Date and Venue

5. The Hearing is scheduled to take place from January 24 to 28, 2022 (with January 29, 2022 held on reserve).
6. The Hearing will take place in person at the ICSID facilities in Washington D.C., subject to the arrangements detailed in **Annex B**. Given the exceptional circumstances created by the COVID-19 pandemic, and the limitations on the number of Participants allowed in the in-person Hearing Room, arrangements will also be made to facilitate connection to the Hearing Room through a virtual platform for Participants that might need to attend remotely (*see* arrangements detailed in **Annex C**). Should any future sanitary restriction or regulation in connection with the COVID-19 pandemic make it inviable to conduct the Hearing in-person as planned, the Tribunal will discuss next steps with the Parties, including whether the Hearing could still be held in an entirely remote format on the same dates planned.

B. Order of Proceedings and Schedule

7. Each day, the Hearing will start at 9:00 AM and it will conclude by 5:30 PM. There will be two coffee breaks of 15 minutes each (one in the morning and one in the afternoon), and a lunch break of 1 hour each day. The order of proceedings and structure of the Hearing will be as indicated in the agenda incorporated as **Annex A**.
8. Following consultation with the Parties, the Tribunal may adjust the Agenda in **Annex A** to account for unexpected disruptions during the Hearing.

C. Time Allocation

9. Total number of hours reserved for the Hearing (excluding the day in reserve): **35 hours** (which excludes a total of 7 hours and 30 minutes for lunches and breaks).
10. The time allocation shall be guided by the principles established in Section 19.6 of Procedural Order No. 1 (reproduced below):

“Unless the parties agree otherwise, the total hearing time shall be split evenly between the Parties, subject to the time the Tribunal intends to reserve for itself for questions and other matters. [...]”

11. Total number of hours reserved for each Party: 15 hours for Claimant and 15 hours for Respondent (including Opening Statements). Each Party may use up to 3 hours for Opening Statements, which shall be applied against that Party’s time allocation. Any unused time for the Opening Statements will be added back to that Party’s time for examination of witnesses and experts.
12. Total number of hours reserved for the Tribunal: 5 hours for time spent by the Tribunal in questioning witnesses and experts and for general housekeeping and other procedural discussions. Time spent during questions posed by the Tribunal and on answers to those questions, as well as time for administrative or organizational matters, will not be counted against the time of any Party. Time spent dealing with objections from a Party shall not be counted against any Party’s time.
13. Time shall be kept using the chess-clock method. The Secretary of the Tribunal shall keep the time and report at the end of each morning and afternoon session the total time that each Party has used and the amount it has remaining.

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14. Each Party may use the time available to it at each stage of the Hearing in the manner it desires, subject to the following:
- a. *Direct Examination of Fact Witnesses.* The direct examination of a fact witness envisioned by Section 17.7 of Procedural Order No. 1 shall not exceed 10 minutes.
 - b. *Direct Presentations by Experts.* The direct presentation by an expert envisioned in Section 17.7 of Procedural Order No. 1 shall not exceed 45 minutes.
15. The Parties are expected to use each Hearing day efficiently and to avoid unnecessary slippage (e.g. delays in returning from breaks). In the event of excess slippage, the Tribunal may revisit the length of the sitting day, or in unusual circumstances the time allocations of the Parties, bearing in mind principles of predictability, equal treatment, and a fair opportunity for the Parties to be heard.

D. Order of Proceedings

16. General Order (sequence of presentations and examinations): The Order will be as follows: (i) Claimant's Opening Statement; (ii) Respondent's Opening Statement; (iii) Claimant's Fact Witnesses; (iv) Respondent's Fact Witnesses; (v) Claimant's Expert Witnesses; and (vi) Respondent's Expert Witnesses. The general structure of the Hearing will be as indicated in **Annex A**.
17. The Hearing Schedule established in Annex A shall be subject to any such modification as the Tribunal may deem necessary or appropriate in the course of the Hearing, in particular, on account of any delay or interruption due to technical difficulties.

E. Documents for Use at the Hearing

1. Electronic Core Bundle

18. As agreed by the Parties, there shall be a single Electronic Core Bundle in USB form, to be prepared jointly by the Parties.
19. The Electronic Core Bundle shall contain all pleadings, witness statements, exhibits and legal authorities on file to date, with a unified hyperlinked index. It shall not contain any document not previously filed. It shall be organized as follows:

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Electronic Hearing Bundle:

01. Pleadings

- A. Claimant
- B. Respondent

02. Witness Statements (with exhibits)

- A. Claimant
- B. Respondent

03. Expert Reports (with exhibits)

- A. Claimant
- B. Respondent

04. Factual Exhibits

- A. Claimant
- B. Respondent

05. Legal Authorities

- A. Claimant
- B. Respondent

06. Tribunal Procedural Orders

20. The Parties shall distribute the Electronic Core Bundle USB at the onset of the Hearing to: (i) each Member of the Tribunal (3 copies); (ii) the Secretary of the Tribunal (1 copy); (iii) court reporter (1 copy), and (iv) interpreters (1 copy).
21. The Parties shall upload the content of the Electronic Hearing Bundle USB to a designated sub-folder in the BOX filesharing platform **by Friday, 14 January 2022**. To ensure operation of the hyperlinked index in BOX, if feasible, the entire Electronic Hearing Bundle shall be housed within one folder and then uploaded to BOX as a single zip file. Should the size of the single zip file make uploading it to BOX not possible, the Parties may simply upload the Electronic Hearing Bundle to a designated sub-folder in the BOX filesharing platform organized in sub-folders using the structure indicated above, including a consolidated (but non-hyperlinked) index.
22. Hearing Participants are advised to have the Electronic Hearing Bundle downloaded into their own computer devices and available for access offline, if necessary.
23. There shall be no hard copy Core Bundle.

2. Demonstrative Exhibits

24. Section 14.8 of Procedural Order No. 1 concerning Demonstrative Exhibits applies.
25. The Parties will share electronically with each other any Demonstrative Exhibits, as well as their expert witnesses' presentations, 30 minutes before the beginning of the respective argument or presentation.

26. The Parties will provide a hard copy of any Demonstrative Exhibits at the beginning of the respective argument or presentation: to the Tribunal (3 copies), the Secretary of the Tribunal (1 copy), the other Party (1 copy), the court reporters (1 copy), and the interpreters (1 copy).
27. The Parties understand that Demonstrative Exhibits are not an opportunity to submit, nor should they resemble, supplementary briefs. Demonstrative Exhibits, including all pie charts, charts, tables, and/or graphs, shall indicate with specificity the source of the information contained therein through references to the record. The Parties reserve the right to verify the information contained in the Demonstrative Exhibits (including graphs and tables) and object in case the Demonstrative Exhibits incorporate new evidence and/or new information that is not already on the record.
28. In addition, promptly after the conclusion of the Hearing day in which the corresponding Demonstrative Exhibit is used, the Parties shall upload each Demonstrative Exhibit to the case folder in the electronic file sharing system (“BOX”), with the required CD-__ or RD-__ number.

3. Examination Bundles

29. At the beginning of each witness or expert direct examination, the Party who is putting forward the witness or expert will provide the witness or expert with copies of his or her signed statements or reports.
30. The Party using Examination Bundles shall have 7 copies available for distribution to: each Member of the Tribunal (3 copies); the Secretary of the Tribunal (1 copy); opposing counsel (1 copy); witnesses or expert (1 copy); court reporters (1 copy), and interpreters (1 copy).
31. The Examination Bundles shall be distributed at the beginning of the relevant examination.

F. Witness and Expert Examinations

32. The Parties have provided notice of the witnesses and experts to be examined in accordance with the Procedural Calendar in accordance with Section 17.2 of Procedural Order No. 1.
33. The rules and procedure concerning the conduct of examinations are established in paragraphs 17.5 to 17.10 of Procedural Order No. 1, and as follows:
 - a. Only one attorney from each side shall ask questions of or otherwise address any witness/expert during his cross-examination.
 - b. Scope of Examination:

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- Direct testimony of the fact witnesses may proceed for a period of up to 10 minutes and the direct testimony of the expert may proceed for a period of up to 45 minutes. This time shall be used to introduce the witness or expert, confirm the accuracy and completeness of the witness's or expert's written statements or expert report, and offer any corrections to the witness's or expert's written statements or expert report that may be necessary. The expert may make a presentation summarizing his report.
- The witness or expert may then be examined by counsel for the opposing Party ("cross-examination") under the control of the Arbitral Tribunal. Cross-examination shall be limited to the scope of the written and oral direct testimony of the relevant witness or expert. Witnesses and experts have the right to request to be shown the documents on the record in their original language if such documents in the original language are already part of the record.
- Subsequently counsel for the Party offering the witness or expert may examine the witness or expert limited to matters that arose during cross-examination ("redirect examination").
- The Tribunal may ask a fact witness or expert questions either during cross-examination or re-direct examination, or at the conclusion of both. At the conclusion of the Tribunal's questions, either Party may request the Tribunal for permission to ask additional questions arising specifically out of an inquiry from the Tribunal. Where the Tribunal asks no questions of the witness or expert, no questions may be asked following the re-direct examination.

c. Sequestration:

- Prior to his examination, a fact witness shall not be present in the hearing room, nor in an Overflow room; discuss the oral arguments or the testimony of any other witness who has already testified prior to giving his or her testimony; read any transcript of oral arguments or oral testimony; or listen to or watch any audio or video recording of the oral arguments or oral testimony. A fact witness shall remain in the respective Party's Break-Out room, which shall not be connected to the Hearing, until called to the hearing room by the Tribunal to testify. These restrictions do not apply to a fact witness who is also a Party, who may be present in the hearing room during the Parties' opening statements. A fact witness who is also a Party shall testify first and upon giving his testimony, he may remain in the hearing room throughout the duration of the Hearing. Any other fact witness can remain in the hearing room throughout

the duration of the Hearing, but *only* after giving and concluding his/her testimony.

- Expert witnesses may attend the hearing at any time, including during opening argument.
- If a witness or expert's examination is interrupted and must continue on the following session, the witness or expert may not speak or contact any of the Parties, their representatives or counsel until the examination is completed.

G. Interpretation

34. In accordance with Section 10.7 of Procedural Order No. 1, there shall be simultaneous Spanish-English and English-Spanish interpretation throughout the Hearing.
35. As agreed by the Parties, the Parties' fact witnesses and expert witnesses shall testify in the language in which the witness statement or expert report was submitted.
36. The Parties will notify the Tribunal, as soon as possible, and no later than at the PHC, which witnesses or experts require interpretation.
37. It is planned that the interpreters will attend the Hearing in person.

H. Sound Recordings and Transcripts

38. Pursuant to Section 20.1 of Procedural Order No. 1, sound recordings will be made of the Hearing in the two procedural languages. The sound recordings shall be provided to the Parties and the Tribunal.
39. ICSID has also made arrangements to have English and Spanish verbatim transcripts available in real-time using Live Note or a similar software during the Hearing.
40. It is planned that the court reporters will attend the Hearing in person. Should court reporters be participating remotely, the real-time court reporting shall be made available to the Participants via an online link connection to be provided by the court reporters, and the Participants shall be required to access the streamed transcripts from their own devices (as there will be no court reporter devices available on-site to display the transcript). The connectivity details (links and instructions) to connect to the streamed real-time transcripts in both procedural languages will be shared by ICSID prior to the start of the Hearing.
41. Electronic versions of the transcripts will be provided to the Parties and the Tribunal on a same-day basis.

42. The Parties shall agree on any major corrections to the transcripts within 30 days of the date of receipt of the sound recordings or transcripts, whichever is last. The agreed corrections may be entered by the court reporters in the transcripts. The Tribunal shall decide upon any disagreement between the Parties on this matter and any correction adopted by the Tribunal shall be entered by the court reporter in the revised transcripts.

I. Transparency

43. As agreed by the Parties in connection with the Hearing on Jurisdiction, the Hearing will be made public via *real-time* streaming in the English and Spanish languages on the ICSID Website. An announcement to this effect shall be published on the ICSID Website.

J. Post-Hearing Briefs

44. The Parties agree to submit Post-Hearing Briefs in lieu of Closing Arguments. These briefs shall be submitted after the Parties receive the final, corrected Hearing transcripts.
45. The Post-Hearing Briefs shall be limited to responding to any questions posed by the Tribunal after the conclusion of the Hearing and/or any matters addressed at the Hearing, but they shall not contain any new factual or legal arguments, and they may not incorporate or make reference to any factual or legal proofs that are not part of the arbitration file.
46. The exact length, format, and due date shall be discussed by the Arbitral Tribunal and the Parties at a later time following the conclusion of the Hearing.

K. Statement on Costs

47. As agreed by the Parties, the Parties shall submit Statements on Costs. These Statements shall be submitted 21 days after the Parties submit their Post-Hearing briefs. The Statements on Costs shall contain no argument. The exact length, format, and due date shall be decided by the Arbitral Tribunal upon consultation with the Parties at the end of the Hearing.

L. Translations

48. The Parties may submit translations of exhibits and/or legal authorities and/or annexes already on the record as a matter of right, in order to be used for cross-examination of witnesses that do not understand the language of the original document. Such translations shall be distributed to the Tribunal and the opposing side no later than 24 hours before the Hearing day at which the submitting Party intends to use it.

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M. List of Participants

49. Each Party shall provide its respective List of Participants for the Hearing (“**List of Participants**”) no later than **Monday, 10 January 2022**, using the format provided in **Annex D**.

For and on behalf of the Tribunal,

[Signed]

Prof. Diego P. Fernández Arroyo
President of the Tribunal
Date: 20 December 2021

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ANNEX A HEARING SCHEDULE ^{1/}

Day 1: Monday, 24 January 2022

Claimant's Opening Statement	Up to 3 hours
Respondent's Opening Statement	Up to 3 hours

Day 2: Tuesday, 25 January 2022

Examination of Michael Anthony Lee-Chin	
Examination of Adrian Anthony Lee-Chin	

Day 3: Wednesday, 26 January 2022

Examination of Evelyn Lopez	

¹ The times denoted in this Schedule are good faith estimates but are subject to change as necessary during the course of the Hearing and at the Tribunal's discretion, within the time allocated to each Party. The Parties shall endeavor to have their next witness available to testify should the schedule move faster than anticipated, so that the time allocated for the Hearing may be used to the fullest.

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(cont. Day 3) Examination of Socrates Perez	
Examination of Angel Cano	

Day 4: Thursday, 27 January 2022

Examination of Deltaway	
Examination of IAV Advisors	

Day 5: Friday, 28 January 2022

Examination J.S. Held	
Examination of Quadrant Economics	

Day 6: Saturday, 29 January 2022

In reserve	

ANNEX B
IN PERSON MODALITY ADDITIONAL ARRANGEMENTS

1. This Annex contemplates certain additional protocols applicable for an in-person format.

I. CONDITIONS AT THE WORLD BANK FACILITIES IN WASHINGTON D.C.

2. The conditions currently in force for entry to the premises of the World Bank facilities in Washington D.C. for purposes of attending an ICSID Hearing are reproduced in this Section. These constitute the applicable conditions at present and might be subject to changes that may be notified by the World Bank should the circumstances related to the pandemic change.

A. NUMBER OF PARTICIPANTS

3. There shall be a maximum of 32 in-person Participants in total for the Hearing, which shall be distributed as follows:
 - a. Main Hearing Room: 12-person cap [Members of the Tribunal (3), Secretary of the Tribunal (1), Claimant (4), and Respondent (4)].²
 - b. Overflow Room 1: 10-person cap
 - c. Overflow Room 2: 10-person cap
4. The Parties agree that each Overflow Room shall have an equitable distribution of the 20 available in-person slots (that is, 10 per side). The fact witnesses shall not be present in the Overflow Room until after they have given their testimony and are released by the Tribunal and shall remain in the respective Party's Break-Out Room (which shall not be connected to the Hearing) until after they have given their testimony (after which they may be present

² The interpreters (3), who will attend from the interpretation booths adjacent to the Hearing Room, and the court reporters (2) shall not count towards the 12-person cap.

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in the Hearing Room or Overflow Room subject to the room's in-person limitations).³ The Parties also agree that Claimant's Overflow Room shall be set up in English, whereas Respondent's Overflow Room shall be set up in the Floor language.

5. The number of Participants that can be present in each break-out room is also capped (it being clear that this is not a number in addition to the 32-person cap, and therefore, any Participant even if physically located in a break-out room would count towards the global 32-person cap):

- Break Out Room 1 – Claimant: 6 people maximum
- Break Out Room 2 – Claimant: 6 people maximum
- Break Out Room 3 – Respondent: 6 people maximum
- Break Out Room 4 – Respondent: 6 people maximum
- Break Out Room 5 – Tribunal: 4 people maximum

B. ID DOCUMENTS

6. Each Participant must present a valid identity document with a photograph.

C. COVID-19 SANITARY REQUIREMENTS

7. All individuals who will be attending the Hearing in person must be fully vaccinated against COVID-19 and provide, the first day of the Hearing, a negative COVID-19 antigen or PCR test not older than 72 hours and carried out by authorized health professionals. Counsel for each Party should convey this requirement to all intended Hearing Participants as soon as possible. Additionally, World Bank visitors will be asked to sign an attestation form before entering the World Bank premises.

³ The Parties will ensure compliance with this provision.

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8. Each Participant attending in person will be required to wear a mask while inside the premises of the World Bank facilities, except while making an oral intervention at the Hearing or while eating.
9. Each Participant attending in person will have to abide by any other sanitary guidelines that might be communicated by the World Bank in Washington D.C. Additional COVID testing may be required closer to the date of the Hearing.
10. In advance of the Hearing, the Parties will be required to provide **no later than Monday 10 January 2022** for each Participant on their side planning to attend in-person (including any counsel, party representatives, witnesses, and experts): a complete List of Participants (using the format provided in **Annex D**) with (i) indication of the Participants who are vaccinated, and (ii) a copy (a scan) of each Participant's vaccination certificate or copy of proof of vaccination in another form;

D. ACCESS OF DOCUMENTS

11. The number of document boxes that can enter the premises of the World Bank in Washington DC might be limited. ICSID will provide further guidance in this regard. Any materials are to be brought by the Parties directly on the day of the set up.

E. FOOD SERVICES

12. Food services (lunch and break refreshments) will be provided in individually wrapped items, with lunches for the Parties to be served in the breakout rooms.

F. OTHER REQUIREMENTS

13. The Parties and the Tribunal are aware that the above only concerns the requirements for entry into the premises of the World Bank facilities in Washington D.C. Each Hearing participant planning to attend in person bears the responsibility for making all necessary arrangements to ensure that they meet any other conditions necessary to attend in person.

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For example, Hearing participants planning to travel from abroad bear the responsibility of checking the conditions of entry into the USA to determine whether they will be able to participate in person at the Hearing in compliance with all the conditions provided for by USA law and regulations.

II. ADDITIONAL SANITARY CONDITIONS

14. Any Participant who experiences signs of a cold, shortness of breath, temperature or other COVID-19 symptoms is asked to refrain from coming to the Hearing until they have obtained a negative rapid antigen test. Any Participant who has already been in attendance at the Hearing and experiences such symptoms during the course of the Hearing shall immediately inform the Tribunal and the ICSID Secretariat of this development, pending the results of their test.
15. If any Participant is to experience COVID-19 symptoms, the Tribunal and the Parties will discuss at the Hearing to what extent it will be possible for such Participant to continue participating at the Hearing remotely.

III. OTHER LOGISTICAL ARRANGEMENTS

16. Other logistical details (*e.g.*, confirmation of break-out room number assignments, set up day details, on-site internet access codes, and catering orders, etc.) will be handled through correspondence directly by the ICSID Hearing Organization Team.

ANNEX C
HYBRID MODALITY ADDITIONAL ARRANGEMENTS

17. This Annex contemplates certain additional protocols applicable to a hybrid format, *i.e.* a scenario with certain Participants attending in-person at the World Bank facilities in Washington D.C. (“**In-Person Participants**”), and others joining the Hearing remotely (“**Remote Participants**”). The protocols for an in-person scenario in **Annex B** will remain applicable to the In-Person Participants.

IV. LOGISTICAL ARRANGEMENTS

1. Videoconference Platform and Streamed Transcript

18. The virtual platform shall be managed by the AV technicians on site at the World Bank facilities in Washington D.C. (“**Operator**”).
19. Real-time court reporting shall be made available to the Remote Participants via an online link connection to be provided by the court reporters. The Remote Participants will be able to access the streamed transcripts from their own devices.
20. The connectivity details (links and instructions) for Remote Participants to join the videoconference session, and to connect to the streamed real-time transcripts in both procedural languages will be shared by ICSID prior to the start of the Hearing.

2. Participants

21. As provided *supra* each Party shall provide its respective List of Participants for the Hearing (“**List of Participants**”) no later than **10 January 2022** using the format provided in **Annex D**. In that List of Participants, each Party shall identify those who will attend in person (“**In-Person Participants**”) and those participating remotely (“**Remote Participants**”). Each Party shall also designate those Participants that will have an active speaking role (“**Active Participants**”), and those who will be passive attendees (“**Passive Participants**”).

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22. For ease of identification, Remote Participants shall join the videoconference using the naming convention indicated in the format in **Annex D**.
23. Access to the videoconference session shall be restricted to those identified in the List of Participants as Remote Participants.
24. Remote Participants shall join the videoconference 30 minutes in advance of the start on each day to facilitate the identification and to address any technical contingencies.

3. Technical Testing of Virtual Platform

25. There shall be a technical test with the Remote Participants in advance of the Hearing, to test connectivity to the virtual platform and to the online real-time transcriptions. For the efficient conduct of this test, Remote Participants are advised to replicate the technical conditions in which they will participate in the Hearing (location and equipment).

4. Connectivity

26. The Parties shall ensure that each of their representatives, witnesses and experts planning to attend as Remote Participants will connect to the videoconference through a stable internet connection offering sufficient bandwidth and using a camera and microphone/headset of adequate quality.
27. If available, Remote Participants are advised to use a wired Ethernet connection instead of Wi-Fi. Remote Participants are also encouraged to keep a smartphone or tablet, having a 4G data connection and mobile hotspot functionality, available as a backup internet connection at all times during the Hearing.
28. The virtual platform will also offer a dial-in telephone audio connection as a backup option should a Remote Participant experience a temporary technical difficulty with a computer online connection.

5. Equipment and Set Up for Remote Participants

29. For optimum sound quality, especially important for the audio recording, the transcription and the interpretation, Remote Participants that are also Active Participants are encouraged to use a headset which incorporates a microphone.
30. While not indispensable, Remote Participants are also encouraged to have at least two screens, and preferably three (it can be one device with multiple screens or a combination of devices including tablets) to facilitate simultaneous viewing of: (i) the video connection; (ii) the online real time transcripts; and (iii) documents.

6. Electronic Document Display

31. During their interventions at the Hearing, each Party shall have the ability to electronically display documents (*e.g.*, PowerPoints presentations, demonstrative exhibits, exhibits and authorities) through the screen-sharing function of the video conference platform, and the displayed document will be visible to the In-Person Participants and the Remote Participants. Each Party will designate a person(s) in its own team (“**Party Document Manager**”) to manage the document display during the respective Party’s interventions at the Hearing.

7. Videoconference Etiquette for Remote Participants

32. For optimum operation of the videoconference platform, the Parties are advised to keep the number of Remote Participants with video connection to a minimum. Remote Participants that are Passive Participants should preferably join the meeting through their computer but turning their video off.
33. Remote Participants shall use the “mute microphone” function when not speaking to reduce background noise and to avoid interference with the audio recording. The Operator serving

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as host of the videoconference shall have the ability to mute Remote Participants if needed to avoid background noise, under the Tribunal's control.

34. Remote Participants are advised to join the Hearing from a location without background noise and with adequate lighting. Remote Participants joining via video shall avoid sitting with a window or source of light behind them.

8. Technical Issues

35. The Tribunal may temporarily or permanently suspend the Hearing if it deems the functioning of the videoconference system for Remote Participants to be inadequate or likely to prejudice the due process rights of either of the Parties or the integrity of the proceeding. Full recordings and real-time streamed transcripts will also be available to mitigate any prejudice arising from the temporary failure of a given Remote Participant to be able to follow the entire Hearing on the videoconference platform.

ANNEX D
[TEMPLATE] LIST OF PARTICIPANTS⁴

(1)	(2)	(3)	(4)	(5)	(6)	(7)
TRIBUNAL						
Break Out Room	Name	Mode	Type ⁶	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
T	[T] – Diego Fernández Arroyo		A	President		
T	[T] – Christian Leathley		A	Arbitrator		
T	[T] – Marcelo Kohen		A	Arbitrator		

ICSID SECRETARIAT						
Break Out Room	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
T	[T] – Marisa Planells Valero		A	Secretary of the Tribunal		

CLAIMANT						
Break Out Room ⁷	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
	<i>Counsel:</i>					
C	[C] - Name and Last name [Email]					[C] Room # 1 [City]
C						[R] Office / Home [City]
	<i>Party Representatives:</i>					

⁴ Note: Columns (1) and (7) only applicable if remote modality.

⁵ “IP” (In-Person Participant) / “RP” (Remote Participant)

⁶ “A” (Active Participant) / “P” (Passive Participant).

⁷ [For remote modality: Witness [W] or Experts [E] called to testify to be assigned to the W/E Break-Out Room during breaks occurring during their examinations. Experts [E] may be assigned to the [C] break out room if connected at any other time.]

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C	[C] - Name and Last name [Email]					
C						
	Witnesses:					
W/E	[W] - Name and Last name [Email]					
W/E						
	Experts:					
W/E	[E] - Name and Last name [Email]					
W/E						

RESPONDENT						
Over-Flow Room ⁸	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
	Counsel:					
R	[R] - Name and Last name [Email]					[R] Room # 1 [City]
R						[R] Office / Home [City]
	Party Representatives:					
R	[R] - Name and Last name [Email]					
R						
	Witnesses:					
W/E	[W] - Name and Last name [Email]					
W/E						
	Experts:					
W/E	[E] - Name and Last name [Email]					

⁸ [For remote modality: Witness [W] or Experts [E] called to testify to be assigned to the W/E Break-Out Room during breaks occurring during their examinations. Experts [E] may be assigned to the [R] break out room if connected at any other time.]

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COURT REPORTERS						
Break Out Room	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
N/A	[CR] - Name and Last name [Email]		P			
N/A			P			
N/A			P			
N/A			P			

INTERPRETERS						
Break Out Room	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
N/A	[INT] - Name and Last name [Email]		P			
N/A			P			
N/A			P			
N/A			P			

TECHNICAL SUPPORT						
Break Out Room	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
N/A	[TECH] - Name and Last name [Email]		P			
N/A			P			
N/A			P			
N/A			P			