

(ICSID Case No. UNCT/18/4)
Procedural Order No. 23

ANNEX B
IN PERSON MODALITY ADDITIONAL ARRANGEMENTS

1. This Annex contemplates certain additional protocols applicable due to restrictions in place at the World Bank premises because of the COVID-19 pandemic.

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. Each Party shall be allowed to have a maximum of 23 in-person participants in the Hearing at any given time. The maximum capacity of each room shall be as follows:
 - a. Main Hearing Room: maximum 29-person cap: Members of the Tribunal (3), Secretary of the Tribunal (1), Claimant (11), Respondent (11), court reporters (2) and witness (1).³
 - b. Overflow Room 1: 25-person cap.⁴
 - c. Overflow Room 2: 25-person cap.
 - d. Break Out Room 1 – Claimants: 12 people maximum.

³ The interpreters (3), who will attend from the interpretation booths adjacent to the Hearing Room shall not count towards the 29-person cap of the main Hearing Room. The maximum number of in-person participants per Party allowed into the main hearing room may be reduced to 9 if and when the NAFTA Non-Disputing Parties make their oral submissions.

⁴ The NAFTA Non-Disputing Parties will be invited to join the Hearing from the overflow rooms, except when making their oral submissions (if any). The 25-person cap includes the representatives of the NAFTA Non-Disputing Parties (maximum of four).

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- e. Break Out Room 2 – Claimants: 11 people maximum.
 - f. Break Out Room 3 – Respondent: 12 people maximum.
 - g. Break Out Room 4 – Respondent: 11 people maximum.
 - h. Break Out Room 5 – Tribunal: 4 people maximum.
4. 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 in the Hearing Room or Overflow Room subject to the room’s in-person limitations).⁵
5. The Overflow Rooms will be set up by language. The Parties are invited to indicate, by **Friday 8 April 2022**, what languages they prefer for the Overflow Rooms (*for example*, Overflow Room 1 in Spanish and Overflow Room 2 in English, or Overflow Room 1 in Spanish and Overflow Room 2 in the Floor language).

B. ID DOCUMENTS

6. In-person Participants must present a valid identity document with a photograph and attest to being fully vaccinated to enter the World Bank facilities. The Secretary of the Tribunal will provide further details to the Parties by email on how to attest vaccination status.

C. COVID-19 SANITARY REQUIREMENTS

7. All individuals who will be attending the Hearing in person must be fully vaccinated⁶ against COVID-19 and provide a negative COVID-19 antigen or PCR test not older than 72 hours and carried out by authorized health professionals ahead of the first day they participate in the Hearing. Each Party is responsible for making sure that the members of its own legal

⁵ The Parties will ensure compliance with this provision.

⁶ A person is considered “fully vaccinated” two weeks after having received the required number of doses from any of the COVID-19 vaccines accepted internationally or nationally in any given country. This includes vaccines that have received national approval but may not yet have been approved by the WHO.

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team and its witnesses and experts comply with this requirement. Each Party shall designate one person to collect confirmation of negative test results and inform the Secretary prior to each attendee's participation in the Hearing and no later than by **23 April 2022, 6 pm EST**.

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., including additional COVID-19 testing. Additionally, World Bank visitors will be asked to sign an attestation form before entering the World Bank premises.
10. In advance of the Hearing, the Parties will be required to provide a copy (a scan) of their 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. 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

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participate in person at the Hearing in compliance with all the conditions provided for by USA law and regulations.

II. HEALTH AND COVID PROTOCOL

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.