

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Orazul International España Holdings S.L.

v.

Argentine Republic

(ICSID Case No. ARB/19/25)

PROCEDURAL ORDER NO. 4

ON THE ORGANIZATION OF THE HEARING

Members of the Tribunal

Dr. Inka Hanefeld, President of the Tribunal
Mr. David R. Haigh, Arbitrator
Prof. Alain Pellet, Arbitrator

Secretary of the Tribunal

Ms. Anna Toubiana

Assistant to the Tribunal

Ms. Charlotte Matthews

1 July 2022

I. INTRODUCTION

1. Pursuant to Section 21 of Procedural Order No. 1, a pre-hearing organizational meeting between the Parties and the Tribunal was held by video conference on 29 June 2022 (the “**Pre-Hearing Call**” or “**PHC**”). Participating in the video conference were:

Members of the Tribunal:

Dr. Inka Hanefeld, President of the Tribunal

Mr. David R. Haigh, Arbitrator

Prof. Alain Pellet, Arbitrator

Tribunal Assistant:

Ms. Charlotte Matthews, Assistant to the Tribunal

Assistant to Prof. Alain Pellet:

Dr. Jean-Baptiste Merlin, Assistant to Prof. Alain Pellet

ICSID Secretariat:

Ms. Anna Toubiana, Secretary of the Tribunal

Ms. Ivania Fernandez, ICSID paralegal

Ms. Alexandra Volou, ICSID intern

Participating on behalf of the Claimant:

Ms. Silvia Marchili (White & Case LLP)

Ms. Isabella Bellera Landa (White & Case LLP)

Ms. Jessica Maroquin (White & Case LLP)

Participating on behalf of the Respondent:

Ms. Mariana Lozza (Procuración del Tesoro de la Nación)

Ms. Alejandra Etchegorry (Procuración del Tesoro de la Nación)

Ms. Soledad Romero Caporale (Procuración del Tesoro de la Nación)

Ms. Carolina Catanzano (Procuración del Tesoro de la Nación)

Mr. Cristian De Fazio (Procuración del Tesoro de la Nación)

2. During the Pre-Hearing Call, the Parties and the Tribunal discussed the draft procedural order circulated to the Parties on 12 May 2022, and the Parties’ proposed amendments to the draft procedural order of 22 June 2022 setting out agreements reached on the open items of the draft procedural order, as well as their respective positions where no agreement was reached.
3. An audio and video recording of the Pre-Hearing Call was made available to the Members of the Tribunal and the Parties on 29 June 2022.

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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 **1 – 15 September 2022**.
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**).
7. In principle, witnesses and experts shall be examined in person. By way of exception, according to Section 18.14 of Procedural Order No. 1, if the circumstances so justify, the Tribunal may allow a witness and/or an expert to appear and be examined by videoconference.
8. Should any future sanitary restriction or regulation in connection with the COVID-19 pandemic make it in-viable 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.
9. The Secretariat will provide further logistical details including setup, entry passes, and room assignment in due course.

B. Order of Proceedings and Schedule

10. Each day, the Hearing will start at 9:30 am and conclude by 5:30 pm, subject to limited overrun where necessary. 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.
11. By **28 July 2022**, each Party will simultaneously submit the order in which their respective witnesses shall appear, which will be incorporated into an updated **Annex A** to this Procedural Order. By the same date, the Parties will also communicate the language that each witness and expert will use to testify during the Hearing.
12. The Tribunal will enforce, with a degree of flexibility, the Hearing agenda in **Annex A**. The Tribunal will seek, when reasonably possible, to avoid that the examination of a factual witness or an expert be interrupted and postponed to the following day.
13. Following consultation with the Parties, the Tribunal may adjust the Hearing agenda in **Annex A** to account for unexpected disruptions during the Hearing.

C. Time Allocation

14. The Parties will each have a total and equal time of 27.5 hours of Hearing time.
15. Without prejudice to such equal time allocation, each Party shall be allocated no more than 3 hours to make its opening statement and one hour will be held in reserve for each Party's closing arguments.
16. The time allotted to the Parties does not include breaks (30 minutes per day), lunch (1 hour per day), and Tribunal time. One hour each day will be allocated for housekeeping matters and questions from the Tribunal, subject to overrun where necessary.
17. The time taken for opening statements shall be counted towards the overall time allocation of each side. Time spent on direct or re-direct examination of witnesses and experts, including expert presentations, shall be counted toward the time allocated to the Party presenting the witness or expert. Time spent by a Party on cross-examination shall be counted toward the time allocated to the Party cross-examining that witness. Time spent on housekeeping matters or responding to Tribunal questions shall not be counted toward either Party's time allocation unless the Tribunal decides, in particular circumstances, to count a reply to the responding Party's allotted time.
18. If a Party objects or otherwise intervenes during the other Party's speaking time, that time will be counted as part of the objecting Party's time.
19. The Secretary of the Tribunal will maintain Hearing time using the chess-clock method, and report the time used and remaining to the Parties and the Tribunal after each day of the Hearing or whenever so requested. Any disagreement between the Parties concerning Hearing time shall be dealt with outside sitting hours whenever possible and referred to the Tribunal only as a last resort.

D. Documents for Use at the Hearing

1. Electronic Hearing Bundle

20. There shall be a single Electronic Hearing Bundle in USB form, to be prepared jointly by the Parties. Any costs associated with the preparation of the Electronic Hearing Bundle, including the hyperlinked index, shall be split equally between the Parties.
21. The Electronic Hearing Bundle shall contain all pleadings, witness statements, exhibits, legal authorities, Tribunal decisions and orders, and correspondence with the Tribunal on file to date in searchable version, with a unified hyperlinked index. It shall not contain any document not previously filed. It shall be organized as follows:

Electronic Hearing Bundle:

01. Pleadings

- A. Claimant
- B. Respondent

02. Witness Statements

- 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's Rulings and Procedural Orders

07. Correspondence with the Tribunal

08. Consolidated and hyperlinked index of all documents

22. The Parties shall upload the content of the Electronic Hearing Bundle to a designated sub-folder in the BOX filesharing platform by **15 August 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.
23. The Parties shall courier the Electronic Hearing Bundle USB to Mr. David Haigh by **15 August 2022** at the address indicated by the Secretariat in due course.
24. Furthermore, the Parties shall distribute the Electronic Hearing 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); and (iii) the Assistant to the Tribunal (1 copy).
25. Hearing Participants are advised to have the Electronic Hearing Bundle downloaded into their own computer devices and available for access offline, if necessary. The court reporters and interpreters will be provided with a copy of the Electronic Hearing Bundle through the ICSID Secretariat.
26. At the conclusion of the Hearing and, if applicable, following the submission of any scheduled post-hearing submissions, the Parties shall also upload to a designated sub-folder in the BOX file-sharing platform an updated Electronic Hearing Bundle in accordance with the provisions of paragraph 22 above. The updated Electronic Hearing Bundle shall contain the hyperlinked version of the index and be updated to include any demonstrative exhibits

introduced during the hearing and any post-hearing submissions.

27. There shall be no hard copy Hearing Bundle. The Parties may nonetheless bring to the Hearing site a hard copy version of the Hearing Bundle for their own use or parts thereof that they deem necessary.

2. Demonstrative Exhibits

28. Demonstrative exhibits shall be used in accordance with Section 16.9 of Procedural Order No. 1 (reproduced below):

Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence, and are solely based on information contained in the record. Each party shall number its demonstrative exhibits consecutively, and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The party submitting such exhibits shall provide them in electronic and hard copy to the other party (two copies), the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) at the beginning of the respective presentation at the hearing and subsequently submit them in electronic format.

29. In addition, at the latest 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. Documents used when examining witnesses and experts

30. 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 a clean, *i.e.* unedited, hard copy of his or her signed statement or report as well as the exhibits cited therein.
31. During cross-examination, the Parties will refer to exhibits and legal authorities that already form part of the record of the case, using the Electronic Hearing Bundle.
32. Documents which the witnesses and experts will be examined on will be shown electronically by each Party and displayed on screens in the Hearing.
33. The Parties conducting cross-examinations may provide each witness and expert with a binder containing hard copies of all the documents that such Party anticipates will be shown to the witness or expert during their cross-examination. Each document shall be clearly identified by reference to its number in the record.
34. The Parties may also provide indices to their cross-examination documents in hard copy at

the commencement of the cross-examination and submit them in electronic format via email.

35. Translations on the record of exhibits and/or annexes used during cross-examination shall be displayed to witnesses or experts who do not understand the original language of the document at their request during their examination. To the extent that a part of an exhibit and/or annex that is being used during cross-examination is untranslated, the interpreters may provide adequate translation of the relevant sentence or passage thereof.
36. The witnesses and experts are entitled to review a full copy of any exhibit or authority on which they will be questioned (*i.e.*, they are not to be restricted to reviewing excerpts of documents shown on a screen).

E. Witness and Expert Examinations

37. The Parties have provided notice of the witnesses and experts to be examined in accordance with Sections 18.6 and 18.8 of Procedural Order No. 1:
 - a. On 16 May 2022, the Parties called for examination of the following witnesses and experts:
 - i. The Respondent called the following witnesses and experts produced by the Claimant:
 - Mr. Brent Bailey
 - Mr. Richard McGee
 - Mr. José Tierno
 - Ms. Daniela Bambaci/Mr. Santiago Dellepiane (BRG)
 - ii. The Claimant called the following witnesses and experts produced by the Respondent:
 - Mr. Daniel Omar Cameron
 - Mr. Javier Gallo Mendoza
 - Mr. Jorge Héctor Ruisoto
 - Mr. Alejandro Valerio Sruoga
 - Mr. Daniel Flores (Quadrant Economics)
 - Mr. Martín Rodríguez Pardina
 - Prof. Jorge E. Viñuales
 - b. On 23 May 2022, the Claimant called the following witnesses and experts produced by the Claimant and whom the Respondent had not called:
 - Ms. Andrea Bertone
 - Mssrs. Agurto and Bernstein (Synex)
 - Prof. Christopher Schreuer

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38. The rules and procedure concerning the conduct of examinations of witnesses are established in Section 18.17 of Procedural Order No. 1, as follows:
- a) The party who has presented the witness may briefly examine the witness for purposes of asking introductory questions, including about any corrections to be made to the written statement, and of addressing matters which have arisen after that witness' written statement was signed (direct examination). In principle, direct examination shall be brief (e.g., not exceed 10 minutes);
 - b) The other party may then cross-examine the witness about relevant facts within the witness' knowledge with respect to the witness statement but not necessarily limited to facts addressed in the witness statement;
 - c) The party who has presented the witness may then re-examine the witness with respect to any matters or issues arising out of the cross-examination;
 - d) The Tribunal may examine the witness at any time, either before, during, or after examination by one of the parties;
 - e) The Tribunal may order two or more witnesses to be examined concurrently (witness conferencing).
39. Section 18.17 of Procedural Order No. 1 applies by analogy to the examination of experts, except as provided by Section 19.4 of Procedural Order No. 1, amended as follows:
- Except as otherwise provided below, the rules set forth in §18 above shall apply by analogy to the evidence of party- and Tribunal-appointed experts.
- 19.4.1. In principle, direct examination of experts shall not exceed 1 hour.
- 19.4.2. The Tribunal or the party that has retained the expert may request such expert to give a presentation for of up to 1 hour before the start of their cross-examination. Any such presentation shall count towards the time limit for direct examination referred to in §19.4.1 above.
40. The Tribunal is entitled to ask questions at any time during the Hearing. Notwithstanding paragraph 16 above, no specific time limit applies to the Tribunal's questions and examinations.
41. Best efforts shall be made to have the presentations and examinations of one Party's respective expert on an issue appear on the same day as the other Party's expert on the issue.
42. In accordance with Section 18.18 of Procedural Order No. 1:

A witness shall not be present in the hearing room during oral testimony and arguments, read the transcript of oral testimony or argument, listen to or watch any audio or video recording of the oral arguments or oral testimony, or receive updates, reports, or any information from a party, its counsel, or other witnesses or experts as to what transpires at the hearing until all witnesses have been examined. This limitation does not apply to experts. Party representatives may be present during opening submissions, unless they are witnesses.

43. Witnesses and experts will appear in the order set in **Annex A**.
44. The examination of witnesses and experts will be limited to matters raised in their witness statements or expert reports.
45. In relation to co-authored expert reports, any questions shall be addressed to both co-authors who will, in turn, decide which of the experts will answer the questions. After one of the co-authors finishes answering a question, and before any further question, the other co-author may provide additional answers or comments to the same question, while avoiding duplication of the other author's answer.

F. Interpretation

46. The Hearing shall be conducted in Spanish and English with simultaneous interpretation into the other procedural language. Transcripts shall be taken in both languages.

G. Sound and Video Recordings and Transcripts

47. According to Section 23 of Procedural Order No. 1:
 - 23.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the parties and the Tribunal Members.
 - 23.2. Verbatim transcript(s) in both procedural language(s) shall be made of any hearing and session other than sessions on procedural issues. The verbatim transcripts shall, if possible, be available in real-time using LiveNote or similar software and electronic transcripts shall be provided to the parties and the Tribunal on a same-day basis.
 - 23.3. The parties shall agree on any corrections to the transcripts within 30 calendar days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the court reporter in the transcripts (“revised transcripts”). The Tribunal shall decide upon any disagreement between the parties and any correction adopted by the Tribunal shall be entered by the court reporter in the revised transcripts.
48. Video recordings shall also be made of all hearings and sessions.

49. Corrections to the transcript after the Hearing, in accordance with Section 23.3 of Procedural Order No. 1, shall seek to ensure that the transcript accurately reflects the testimony of a witness or expert in the original language at the Hearing. If there is a discrepancy between the interpreted language and the original language on the audio recording, the written transcript shall be corrected to correspond to the accurate interpretation of the original language on the audio recording.

H. Post-Hearing Briefs and Statements on Costs

50. According to Section 24 of the Procedural Order No. 1:
- 24.1. In consultation with the parties, the Tribunal will determine at the end of the hearing whether there shall be post-hearing briefs. In the affirmative, the Tribunal will address the time limits for, and the length, format, and content of the post-hearing briefs. Post-hearing briefs shall be limited to addressing the remaining issues that still divide the parties after the hearings as well as any issues that the Tribunal may request the parties to address.
 - 24.2. The Tribunal will issue directions on the parties' statements of costs at the end of the hearing.

I. List of Participants

51. On **28 July 2022** each Party will provide its respective List of Participants for the Hearing ("**List of Participants**") using the format provided in **Annex D**. Due to COVID-19 related restrictions, the maximum capacity of the Hearing room currently is 25 persons. Break-out rooms currently have a maximum capacity of 11 persons for each Party. The Secretariat will provide the Parties with capacity updates, if any.
52. There will be a link to a Zoom meeting for all participants, including for attendees not able to join the in-person session due to capacity restrictions and for the purposes of document sharing by the Parties, as provided in **Annex D**.

On behalf of the Tribunal,

[signed]

Dr. Inka Hanefeld
President of the Tribunal
Date: 1 July 2022

ANNEX A
HEARING SCHEDULE

Day 1 – Thursday, 1 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Introduction and Housekeeping
		Claimant’s Opening Statements
(TBD)	15 mins	Break
		Claimant’s Opening Statements
		Questions from the Tribunal
(TBD)	1 h	Lunch
		Respondent’s Opening Statements
(TBD)	15 mins	Break
		Respondent’s Opening Statements
		Questions from the Tribunal
05:30 PM		End

Day 2 – Friday, 2 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Claimant’s Witness No. 1
(TBD)	15 mins	Break
		Claimant’s Witness No. 1
		Questions from the Tribunal
(TBD)	1 h	Lunch
		Claimant’s Witness No. 2
(TBD)	15 mins	Break
		Claimant’s Witness No. 2
		Questions from the Tribunal
05:30 PM		End

Day 3 – Monday, 5 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Claimant’s Witness No. 3
(TBD)	15 mins	Break

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		Claimant's Witness No. 3
(TBD)	1 h	Lunch
		Claimant's Witness No. 4
(TBD)	15 mins	Break
		Claimant's Witness No. 4
		Questions from the Tribunal
05:30 PM		End

Day 4 – Tuesday, 6 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Respondent's Witness No. 1
(TBD)	15 mins	Break
		Respondent's Witness No. 1
		Questions from the Tribunal
(TBD)	1 h	Lunch
		Respondent's Witness No. 2
(TBD)	15 mins	Break
		Respondent's Witness No. 2
		Questions from the Tribunal
05:30 PM		End

Day 5 – Wednesday, 7 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Respondent's Witness No. 3
(TBD)	15 mins	Break
		Respondent's Witness No. 3
		Questions from the Tribunal
(TBD)	1 h	Lunch
		Respondent's Witness No. 4
(TBD)	15 mins	Break
		Respondent's Witness No. 4
		Questions from the Tribunal
05:30 PM		End

Day 6 – Thursday, 8 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Prof. Christoph Schreuer
(TBD)	15 mins	Break
		Prof. Christoph Schreuer
		Questions from the Tribunal
(TBD)	1 h	Lunch
		Prof. Jorge E. Viñuales
(TBD)	15 mins	Break
		Prof. Jorge E. Viñuales
		Questions from the Tribunal
05:30 PM		End

Day 7 – Friday, 9 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Renato Agurto and Sebastian Bernstein (Synex)
(TBD)	15 mins	Break
		Renato Agurto and Sebastian Bernstein (Synex)
		Questions from the Tribunal
(TBD)	1 h	Lunch
		Dr. Martin Rodriguez Pardina
(TBD)	15 mins	Break
		Dr. Martin Rodriguez Pardina
		Questions from the Tribunal
05:30 PM		End

Day 8 – Monday, 12 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Santiago Dellepiane and Daniela Bambaci (BRG)
(TBD)	15 mins	Break
		Santiago Dellepiane and Daniela Bambaci (BRG)
(TBD)	1 h	Lunch
		Santiago Dellepiane and Daniela Bambaci (BRG)
(TBD)	15 mins	Break

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		Santiago Dellepiane and Daniela Bambaci (BRG)
		Questions from the Tribunal
05:30 PM		End

Day 9 – Tuesday, 13 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Dr. Daniel Flores (Quadrant Economics)
(TBD)	15 mins	Break
		Dr. Daniel Flores (Quadrant Economics)
(TBD)	1 h	Lunch
		Dr. Daniel Flores (Quadrant Economics)
(TBD)	15 mins	Break
		Dr. Daniel Flores (Quadrant Economics)
		Questions from the Tribunal
05:30 PM		End

Day 10 – Thursday, 15 September 2022

<i>Hour</i>	<i>Duration</i>	PROCEDURAL STEP
00:00 AM/PM	(# hours/min.)	
09:30 AM		Housekeeping
		Claimant’s Closing Statements
(TBD)	15 mins	Break
		Claimant’s Closing Statements
(TBD)	1 h	Lunch
		Respondent’s Closing Statements
(TBD)	15 mins	Break
		Respondent’s Closing Statements
		Questions from the Tribunal
05:30 PM		End

ANNEX B
IN-PERSON MODALITY ADDITIONAL ARRANGEMENTS
[Subject to change up until the hearing]

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 25 in-person Participants in total for the Hearing (including the Tribunal Members, the Assistant to the Tribunal and the Secretary of the Tribunal).
4. The number of Participants that can be present in each break-out room is capped to 11 (it being clear that this is not a number in addition to the 25-person cap, and therefore, any Participant even if physically located in a break-out room would count towards the global 25-person cap).

B. ID DOCUMENTS

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

C. COVID-19 SANITARY REQUIREMENTS

6. ICSID has reserved a Hearing Room and break out rooms for each party and the Tribunal to attend the Hearing in person. The Secretariat has also made arrangements for the Hearing Room set up with distancing and other health related measures.
7. All individuals who will be attending the Hearing in person must be fully vaccinated against COVID-19. 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.
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 or drinking.
9. The Parties also confirm that all Hearing participants will 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.

D. ACCESS OF DOCUMENTS

10. The number of document boxes that can enter the premises of the World Bank in Washington, D.C. 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

11. 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

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

II. ADDITIONAL SANITARY CONDITIONS

13. 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.
14. 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

15. Other logistical details (e.g., confirmation of breakout 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

1. 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.

II. LOGISTICAL ARRANGEMENTS

A. VIDEOCONFERENCE PLATFORM AND STREAMED TRANSCRIPT

2. The virtual platform shall be managed by the AV technicians on site at the World Bank facilities in Washington D.C. (“**Operator**”).
3. 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.
4. 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.

B. PARTICIPANTS

5. As provided *supra*, each Party will provide its respective List of Participants for the Hearing (“**List of Participants**”) by 28 July 2022, using the format provided in **Annex D**. In that List of Participants, each Party will identify those who will attend in-person (“**In-Person Participants**”) and members of the counsel team and Party representatives that will be participating remotely (“**Remote Participants**”). Each Party will also designate those Participants that will have an active speaking role (“**Active Participants**”), and those who will be passive attendees (“**Passive Participants**”).
6. For ease of identification, Remote Participants shall join the videoconference using the naming convention indicated in the format in **Annex D**.
7. Access to the videoconference session shall be restricted to those identified in the List of Participants as Remote Participants.
8. 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.

C. TECHNICAL TESTING OF VIRTUAL PLATFORM

9. 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).

D. CONNECTIVITY

10. The Parties shall ensure that each of their representatives, witnesses and experts attending 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.
11. 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.
12. 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.

E. EQUIPMENT AND SET UP FOR REMOTE PARTICIPANTS

13. For optimum sound quality, which is 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.
14. 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.

F. ELECTRONIC DOCUMENT DISPLAY

15. 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.

G. VIDEOCONFERENCE ETIQUETTE FOR REMOTE PARTICIPANTS

16. 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.

17. 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 as host of the videoconference shall have the ability to mute Remote Participants if needed to avoid background noise, under the Tribunal’s control.
18. 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.

H. TECHNICAL ISSUES

19. 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
LIST OF PARTICIPANTS¹

(1)	(2)	(3)	(4)	(5)	(6)	(7)
TRIBUNAL						
Break Out Room	Name	Mode ²	Type ³	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
T	[T] – Dr. Inka Hanefeld hanefeld@hanefeld-legal.com		A	President		
T	[T] – Mr. David R. Haigh QC drh@bdplaw.com		A	Arbitrator		
T	[T] Prof. Alain Pellet courriel@alainpellet.eu		A	Arbitrator		
T	[T] – Ms. Charlotte Matthews matthews@hanefeld-legal.com		P	Tribunal Assistant		
	Mr. Jean-Baptiste Merlin jbmerlin@hotmail.fr	RP	P	Assistant to Prof. Alain Pellet		

ICSID SECRETARIAT						
Break Out Room	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
T	[T] – Anna Toubiana atoubiana@worldbank.org		A	Secretary of the Tribunal		

CLAIMANT						
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Break Out Room⁴	Name	Mode	Type	Affiliation	COVID-19 Vaccination	Place of Connection
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¹ *Note:* Columns (1), (3), (4) and (7) only applicable if remote modality.

² “IP” (In-Person Participant) / “RP” (Remote Participant)

³ “A” (Active Participant) / “P” (Passive Participant).

⁴ [*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.]

					[Y/N]	
	Party Representatives:					
C	[C] - Name and Last name [Email]					
	Witnesses:					
W/E	[W] - Name and Last name [Email]					
W/E						
	Experts:					
W/E	[E] - Name and Last name [Email]					
W/E						

RESPONDENT						
Break Out Room ⁵	Name	Mode	Type	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
	Counsel:					
R	[R] - Name and Last name [Email]					[R] Room # 1 [City]

⁵ [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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Procedural Order No. 4

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]					

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

INTERPRETERS

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

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Procedural Order No. 4

	[Email]					
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			