

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Angel Samuel Seda and others

v.

Republic of Colombia

(ICSID Case No. ARB/19/6)

PROCEDURAL ORDER NO. 10

Members of the Tribunal

Prof. Dr. Klaus Sachs, President of the Tribunal

Prof. Hugo Perezcano Díaz, Arbitrator

Dr. Charles Poncet, Arbitrator

Secretary of the Tribunal

Ms. Sara Marzal

26 April 2022

I. INTRODUCTION

1. Pursuant to Section 19.1 of Procedural Order No. 1, a pre-hearing organizational meeting between the Parties and the Tribunal was held by video conference on 12 April 2022 (the “**Pre-Hearing Call**” or “**PHC**”). Participating in the video conference were:

Members of the Tribunal

Prof. Dr. Klaus Sachs, President of the Tribunal

Prof. Hugo Perezcano Díaz, Arbitrator

Dr. Charles Poncet, Arbitrator

Tribunal Assistant

Mr. Marcus Weiler, Assistant to the Tribunal

ICSID Secretariat:

Ms. Sara Marzal, Secretary of the Tribunal

Participating on behalf of the Claimants:

Mr. Rahim Moloo, Gibson, Dunn & Crutcher LLP

Ms. Anne Champion, Gibson, Dunn & Crutcher LLP

Mr. Pedro Soto, Gibson, Dunn & Crutcher LLP

Ms. Ankita Ritwik, Gibson, Dunn & Crutcher LLP

Ms. Marryum Kahloon, Gibson, Dunn & Crutcher LLP

Mr. Angel Seda, Claimant

Participating on behalf of the Respondent:

Ms. Ana María Ordoñez Puentes, *Agencia Nacional de Defensa Jurídica del Estado*

Mr. Giovanni Andrés Vega Barbosa, *Agencia Nacional de Defensa Jurídica del Estado*

Dr. Yas Banifatemi, Gaillard Banifatemi Shelbaya Disputes

Ms. Ximena Herrera-Bernal, Gaillard Banifatemi Shelbaya Disputes

Ms. Yael Ribco Borman, Gaillard Banifatemi Shelbaya Disputes

Ms. Pilar Alvarez, Gaillard Banifatemi Shelbaya Disputes

Ms. Carolina Barros, Gaillard Banifatemi Shelbaya Disputes

2. During the Pre-Hearing Call, the Parties and the Tribunal discussed the draft procedural order circulated to the Parties on 15 March 2022, and the Parties joint statement of 11 April 2022 advising the Tribunal of any 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 recording of the Pre-Hearing Call was made available to the Members of the Tribunal and the Parties on 13 April 2022.

4. At the invitation of the Tribunal, the Parties conferred on the time allocation between the Parties and the hearing agenda and, on 21 April 2022, they submitted their joint proposal on both issues.
5. 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

6. The Hearing is scheduled to take place from May 2 to 6, 2022 (with May 7, 2022, held in reserve).
7. 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**).
8. Should any future sanitary restriction or regulation in connection with the COVID-19 pandemic make it infeasible 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

9. Each day, the Hearing will start at 9:30 AM and it will conclude by 6:30 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.
10. The order of proceedings and structure of the Hearing will be as indicated in the agenda incorporated as **Annex A**.
11. The Arbitral Tribunal will enforce, with a degree of flexibility, the Hearing agenda in **Annex A**. The Arbitral 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.
12. 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

13. The Parties will have a total of 32 hours of hearing time.
14. The time allotted to the Parties does not include breaks (30 minutes per day), lunch (1 hour per day), and Tribunal time.
15. Each Party shall have a total of 16 hours. Both Parties reserve the right to request additional time from the Tribunal at the Hearing in the event that extra time is required.
16. Each Party shall be allocated no more than 3 hours to make its opening statement.
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 Core Bundle

20. There shall be a single Electronic Core Bundle in USB form, to be prepared jointly by the Parties.
21. The Electronic Core Bundle shall contain all pleadings, witness statements, exhibits, legal authorities and Tribunal decisions and orders on file to date, 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. Claimants
- B. Respondent

02. Witness Statements

- A. Claimants
- B. Respondent

03. Legal Expert Reports (with exhibits)

- A. Claimants
- B. Respondent

04. Real Estate Expert Reports (with exhibits)

- A. Claimants
- B. Respondent

05. Quantum Expert Reports (with exhibits)

- A. Claimants
- B. Respondent

06. Factual Exhibits

- A. Claimants
- B. Respondent

07. Legal Authorities

- A. Claimants
- B. Respondent

08. Tribunal's Rulings and Procedural Orders

09. Correspondence with the Tribunal

22. The Parties shall upload the content of the Electronic Hearing Bundle USB to a designated sub-folder in the BOX filesharing platform **by 28 April 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. In addition, 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 reporters (2 copies) and (ii) interpreters (3 copies).
24. Hearing Participants are advised to have the Electronic Hearing Bundle downloaded into their own computer devices and available for access offline, if necessary.
25. There shall be no hard copy Core Bundle.

2. Demonstrative Exhibits

26. Demonstrative exhibits shall be used in accordance with Section 16.8 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. 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, the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) at the hearing. Each Party shall ensure that the opposing Party and each Tribunal Member have both electronic and hard copies of demonstrative exhibits prior to commencing its oral arguments or the examination in which they will be used.

27. The Parties shall produce electronic copies of all demonstrative exhibits used in the Hearing at least 24 hours before the respective demonstrative exhibit is used to opposing counsel. However, PowerPoint presentations in support of a Party's oral argument are not considered to be demonstrative exhibits and shall be shared with the opposing Party, each Tribunal Member, the court reporters and interpreters at the start of each Party's oral argument.
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 clean copies of his or her signed statements or reports.
30. 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.
31. The Party examining a witness shall have 1 hard copy of the examination bundle available for the witness, if necessary. Documents will be shown electronically by each Party and displayed on screens in the hearing room. Each document shall be clearly identified by reference to its number in the record.
32. The witnesses and experts are entitled to ask to be shown 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

33. The Parties have provided notice of the witnesses and experts to be examined in accordance with Section 18.4 of Procedural Order No. 1.
34. The rules and procedure concerning the conduct of examinations are established in Section 18 of Procedural Order No. 1, and as follows:
- a. Witnesses and experts shall be examined in person except in exceptional circumstances as determined by the Tribunal, in which case examination by video-conference may be permitted.
 - b. Before testifying, each witness shall make the declaration contained in ICSID Arbitration Rule 35(2), and each expert shall make the declaration contained in ICSID Arbitration Rule 35(3).
 - c. At the Hearing, the examination of each witness shall proceed as follows:
 - i. A clean copy of the witness' written statement shall stand before that witness. The Party presenting the witness may briefly examine the witness for the purpose of introducing the witness, correcting, if necessary, any errors in the witness statement and addressing matters arising after the witness statement was given, if any;¹
 - ii. the opposing Party may then cross-examine the witness;
 - iii. the Party presenting the witness may then re-examine the witness with respect to any matters or issues arising out of the cross-examination. At the discretion of the Tribunal, the opposing Party may re-cross examine the witness, with the re-cross examination limited to the witness's testimony on re-examination; and
 - iv. the Tribunal may examine the witness at any time, either before, during or after examination by one of the Parties.
 - d. The examination of an expert shall proceed in the manner set forth for fact witnesses in paragraph 26, except that subparagraph (a) may, at the request of the presenting Party, for the Colombian law, real estate and valuation experts be replaced with a presentation. Such a presentation shall not exceed 30 minutes for the Colombian law and real estate experts, and 45 minutes for the valuation experts, with time spent on Tribunal questions not being taken from the time allotted to these presentations.

¹ During the Pre-Hearing Call, the Parties agreed that Mr. Ángel Samuel Seda would submit a 5-page additional witness statement before the Hearing addressing matters occurred after his latest witness statement. In light of this, Mr. Seda will not be allowed to speak about matters not addressed in his witness statements during his direct examination.

35. Best efforts shall be made to have the presentations and examinations of the Parties' Colombian law, real estate and valuation experts appear on the same day as the other Parties' expert. The timing for the Parties' exchange of any demonstrative exhibits used during expert presentations is addressed at paragraph 25.
36. Unless agreed otherwise, a fact witness shall not be present in the Hearing room during the opening statement, the hearing of oral testimony, nor shall he or she read any transcript of any oral testimony prior to his or her examination. This limitation does not apply to experts or to a fact witness if that fact witness is a party representative. Lead counsel for each Party shall be expected personally to enforce this rule.
37. Fact witnesses may be present in the Hearing room once their examination is complete.
38. Experts may attend the hearing in its entirety
39. Witnesses and experts will appear in the order set in **Annex A**.
40. The examination of witnesses and experts will be limited to matters raised in their witness statements or expert reports.
41. In relation to co-authored expert reports, the party presenting the expert shall indicate at the start of their direct examination the experts' scope in relation to the co-authored report, as applicable. In any event, once an expert starts answering a question during examination, the other expert co-authoring the same report shall refrain from providing additional answers or comments to the same question.

F. Interpretation

42. The hearing shall be conducted in Spanish and English with simultaneous interpretation into the other procedural language. Transcripts shall be taken in both languages.
43. Pursuant to Section 11.9 of the Procedural Order No. 1, the parties have notified the Tribunal the language that each witness and expert will use to testify during the hearing.

G. Sound Recordings and Transcripts

44. According to Section 21 of Procedural Order No. 1:

“21.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the parties and the Tribunal Members.

21.2. Verbatim transcripts in the procedural languages shall be made of any hearing and session other than sessions on procedural issues. Unless otherwise agreed by the parties or ordered by the Tribunal, the verbatim transcripts shall 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.

21.3. 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. The Secretariat shall provide the Parties and the Tribunal Members the final version of the transcripts once the revised transcripts have been approved by the Tribunal.”

H. Transparency

45. Pursuant to Article 10.21.2 of the United States - Colombia Trade Promotion Agreement (“US – Colombia TPA”), the Hearing shall be open to the public and the Tribunal shall, in consultation with the disputing Parties, establish the logistical arrangements to ensure public access, as well as the protection of information designated by the disputing Parties as protected information.
46. In this regard, the following logistical arrangements will be made:
 - i. A video recording of the Hearing will be made. The Hearing will be made publicly accessible by posting the edited video recording (*i.e.* to remove all the protected information) on the ICSID website as soon as possible after the Hearing.
 - ii. Before posting the recording on the ICSID website and in order to avoid public disclosure of protected information, the recording will be edited after the Hearing.
 - iii. After the Hearing, either Party may request that a specific section of the Hearing be considered protected and therefore excluded from the recording (“ex-post requests”). The Party making the ex-post request shall be responsible for providing to the Tribunal, the Secretary of the Tribunal and the opposing Party the exact period of time which it seeks to be removed from the recording. If the opposing Party has an objection to such request, the Tribunal shall decide after hearing both Parties.
 - iv. ICSID will edit the recording and the transcripts accordingly. The Parties will send ICSID a list of agreed edits (including the end and start timestamps of the video recording that should be excluded from publication). The Tribunal will decide if there are any pending disagreements.
47. ICSID will announce the hearing on the Centre’s website before the hearing. Below is a draft of the public announcement:

“A hearing on jurisdiction and the merits in the above case is scheduled to take place at the seat of the Centre in Washington, D.C. from May 2, 2022, to May 6, 2022, with May 7, 2022 held in reserve.

Pursuant to Article 10.21 of the United States - Colombia Trade Promotion Agreement, and mindful of the confidential information which disclosure may cause irreversible harm to the Parties, the hearing will be made accessible to the public by publishing a video recording of the hearing on ICSID’s website as soon as possible after the hearing.

Please continue to monitor our website for further announcements.”

48. In accordance with Article 10.20.2. of the US – Colombia TPA, the non-disputing Party (in this case, the USA) may make oral submission to the Tribunal regarding the interpretation of the Treaty. In the event the USA wishes to attend the Hearing and make such oral submission (or attend the Hearing without making any oral submissions), appropriate arrangements will be made for the USA government officials to attend the Hearing either in person or virtually.² The ability of the USA to make oral submissions will not infringe on either party’s ability to present its case.

I. Closing Submissions, Post-Hearing Briefs and Statements on Costs

49. According to Section 22 of the Procedural Order No. 1:

22.1. All matters concerning post-hearing memorials and statements of costs shall be discussed at the close of the oral hearing. In any event, such submissions, if any, shall not contain new evidence, documents, sources, witness statements or expert reports or opinions, except in exceptional circumstances, as determined by the Tribunal upon consultation with the Parties.

22.2. Each party will submit its Statement of Costs within 4 weeks after the hearing or the final exchange of Post-Hearing Memorials (if any).

50. There will be no closing oral statements at the end of the Hearing.
51. The Tribunal will discuss with the Parties at the end of the hearing the possibility of post-hearing briefs and/or subsequent closing oral statements, once all disputed issues have been fully briefed.

J. List of Participants

52. Each Party has provided its respective List of Participants for the Hearing (“**List of Participants**”) using the format provided in **Annex D**.

² However, in accordance with Article 10.21.4, the USA’s government officials will not have access to those sections of the Hearing in which protected information is discussed.

On behalf of the Tribunal,

[Signed]

Prof. Dr. Klaus Sachs
President of the Tribunal
Date: 26 April 2022

ANNEX A

HEARING SCHEDULE³

Day 1: Monday May 2, 2022

Procedural Step
Meeting With Tribunal & Discussion of Procedural Issues (30 min)
Claimants' Opening Statement (3 hours)
Respondent's Opening Statement (3 hours)

Day 2: Tuesday May 3, 2022

Procedural Step
U. S. State Department Submission (45 minutes)
Claimants' comments on the U.S. Submission (15 min)
Respondent's comments on the U.S. Submission (15 min)
Direct Examination of Angel Seda (10 minutes)
Cross-Examination of Angel Seda (4 hours 30 minutes)
Re-direct Examination of Angel Seda (10 minutes)

Day 3: Wednesday May 4, 2022

Procedural Step
Direct Examination of Daniel Hernandez (10 minutes)
Cross Examination of Daniel Hernandez (2 hours)
Re-direct Examination of Daniel Hernandez (10 minutes)

³ 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.

Direct Examination of Ardila Polo (10 minutes)
Cross Examination of Ardila Polo (2.5 hours)
Re-direct Examination of Ardila Polo (10 minutes)
Direct Examination of Ivan Caro (10 minutes)
Cross Examination of Ivan Caro (1 hour)
Re-direct Examination of Ivan Caro (10 minutes)

Day 4: Thursday May 5, 2022

Procedural Step
Expert Presentation of Wilson Martinez (30 min)
Cross Examination of Wilson Martinez (1 hour 30 min)
Re-direct Examination of Wilson Martínez (10 min)
Expert Presentation of Yesid Reyes (30 min)
Cross Examination of Yesid Reyes (1 hour)
Re-direct Examination of Yesid Reyes (10 min)
Expert Presentation of JLL (30 min)
Cross Examination of JLL (1 hour)
Re-direct Examination of JLL (10 min)
Expert Presentation of CBRE (30 min)
Cross Examination of CBRE (1 hour)
Re-direct Examination of CBRE (10 min)

Day 5: Friday May 6, 2022

Procedural Step
Expert Presentation of BRG (45 min)
Cross Examination of BRG (2 hours 30 min)
Re-direct Examination of BRG
Expert Presentation of NERA (45 min)
Cross Examination of NERA (2 hours 30 min)
Re-direct Examination of NERA (10 min)

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 29 in-person Participants in total for the Hearing (including the Tribunal Members, its Assistant and the Secretary of the Tribunal).
4. The number of Participants that can be present in each break-out room is also capped to 12 (it being clear that this is not a number in addition to the 29-person cap, and therefore, any Participant even if physically located in a break-out room would count towards the global 29-person cap).

B. ID DOCUMENTS

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

C. COVID-19 SANITARY REQUIREMENTS

6. 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.

7. 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.
8. 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.

D. ACCESS OF DOCUMENTS

9. 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

10. 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

11. 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

12. 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.

13. 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

14. 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.

IV. LOGISTICAL ARRANGEMENTS

1. 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.

2. Participants

5. As provided *supra*, each Party provided its respective List of Participants for the Hearing (“**List of Participants**”), using the format provided in **Annex D**. In that List of Participants, each Party identified those who will attend in person (“**In-Person Participants**”) and those participating remotely (“**Remote Participants**”). Each Party also designated 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.

3. 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).

4. Connectivity

10. 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.
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.

5. Equipment and Set Up for Remote Participants

13. 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.

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.

6. 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.

7. 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.

8. 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.

Angel Samuel Seda and others v. Republic of Colombia
(ICSID Case No. ARB/19/6)

Procedural Order No. 10 – Annex D

ANNEX D
[TEMPLATE] LIST OF PARTICIPANTS⁴

(1)	(2)	(3)	(4)	(5)	(6)	(7)
TRIBUNAL						
Break Out Room	Name	Mode ⁵	Type ⁶	Affiliation	COVID-19 Vaccination [Y/N]	Place of Connection
T	[T] – Prof. Dr. Klaus Sachs klaus.sachs@cms-hs.com		A	President		
T	[T] – Prof. Hugo Perezcano Díaz hugo.perezcano@iiuris.com		A	Arbitrator		
T	[T] – Dr. Charles Poncet charles@poncet.law		A	Arbitrator		
T	[T] – Mr. Marcus Weiler marcus.weiler@cms-hs.com		P	Tribunal Assistant		

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

CLAIMANT						
Break Out Room ⁷	Name	Mode	Type	Affiliation	COVID-19 Vaccination	Place of Connection

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.]

Angel Samuel Seda and others v. Republic of Colombia
(ICSID Case No. ARB/19/6)

Procedural Order No. 10 – Annex D

					[Y/N]	
	Counsel:					
C	[C] - Name and Last name [Email]					[C] Room # 1 [City]
C						[R] Office / Home [City]
	Party Representatives:					
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]

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.]

Angel Samuel Seda and others v. Republic of Colombia
(ICSID Case No. ARB/19/6)

Procedural Order No. 10 – Annex D

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	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		P			

Angel Samuel Seda and others v. Republic of Colombia
(ICSID Case No. ARB/19/6)

Procedural Order No. 10 – Annex D

	[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			