

6 November 2012

By email

Apotex Holdings Inc. and Apotex Inc.
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Re: **Apotex Holdings Inc. and Apotex Inc. v. United States of America**
(ICSID Case No. ARB(AF)/12/1)

Dear Mesdames and Sirs,

Please find below the Tribunal's decision regarding the place of arbitration.

"The Tribunal has considered the Disputing Parties' respective written submissions regarding the legal place of their arbitration within the meaning of NAFTA Article 1130 and ICSID AF Rules 19 and 20, as advanced by the Claimants' letters (with enclosures) dated 24 August, 17 September and 10 October 2012 and the Respondent's letters (with enclosures) dated 31 August, 26 September and 26 October 2012. The Tribunal has also considered (to the extent here relevant) ICSID's letter dated 10 October 2012 under ICSID AF Rule 20.

The Tribunal remains conscious, as already indicated in its message dated 2 October 2012, that this controversy between the Disputing Parties requires resolution as soon as possible, given in particular that these arbitration proceedings were commenced in February 2012 and that this particular item remains outstanding from the first session and draft first procedural order of July 2012. The Tribunal is therefore grateful to the Disputing Parties for their consent to the Tribunal's proposal, made by letter dated 19 October 2012, that the Tribunal should decide upon the legal place of this arbitration and announce that decision to the Parties immediately, with written reasons for that decision to follow later.

There is no current controversy between the Disputing Parties as regards the geographical venue for procedural meetings and oral hearings: it is agreed to be ICSID (the World Bank, Washington DC). Accordingly, subject to any further order by the Tribunal, the Tribunal confirms that geographical venue for all procedural meetings and oral hearings, strictly without prejudice to the legal place of this arbitration.

In the circumstances, the Disputing Parties' controversy as to the legal place of their arbitration requires the Tribunal's decision to be made from: (i) Washington DC (USA), (ii) Toronto (Canada) and (iii) New York, NY (USA).

For reasons to be given in writing later, the Tribunal here decides upon New York, NY (USA) as the legal place of this arbitration."

Yours sincerely,

[Signed]

Eloïse Obadia
Secretary to the Tribunal

cc: Members of the Tribunal