

**International Centre for Settlement of Investment Disputes**

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June 16, 1999

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Fresno, California 93720

United Mexican States  
Secretaría de Comercio y Fomento Industrial  
c/o Mr. Hugo Perezcano Diaz  
Consultor Jurídico  
Subsecretaría de Negociaciones Comerciales  
Internacionales  
Dirección General de Consultoría Jurídica  
de Negociaciones  
Alfonso Reyes No. 30, Piso 17  
Colonia Condesa  
México, Distrito Federal, C.P. 06149

Re: Robert Azinian and others v. United Mexican States  
(ICSID Case No. ARB(AF)/97/2)

Dear Sirs,

I refer to the two communications of the United Mexican States of June 14, 1999 and to the Claimants' communication of June 15, 1999, made in connection with the hearing on the merits to be held from June 21 through June 25, 1999.

In one of its June 14, 1999 communications, the United Mexican States announced that it has been informed that the Government of Canada wishes to have a representative attend next week's hearing "in order to exercise Canada's rights under NAFTA Article 1128."

The President of the Tribunal ~~has~~ asked me to inform you that any such written request from the Government of Canada to be allowed to attend the hearing would be received by the Tribunal and the parties at a rather surprisingly late stage in the proceeding. It would be difficult in these circumstances for the Tribunal to make a ruling on such an eventual request before the beginning of the hearing itself.

Article 1128 of the NAFTA provides that, "[o]n written notice to the disputing parties, a Party may make submissions to a Tribunal on a question of interpretation of" the NAFTA. The President of the Tribunal notes that there is nothing in Article 1128 of the NAFTA which requires a Tribunal in a proceeding to allow a third NAFTA Party to be physically present at a hearing in order to make the submissions referred to in that Article. Such submissions could instead, and probably more usefully, be made in writing. In the event that such a third NAFTA Party were unusually to request to be present at a hearing, the disputing parties and the Tribunal would no doubt expect such a request to be made in good time. On this basis, and without prejudice to the admissibility of other forms of

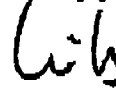
submissions, it is by no means certain in this case that the Government of Canada will be allowed to be present at next week's hearing.

The United Mexican States' other communication of June 14, 1999 includes a request for the Tribunal to call for the Claimants to produce certain documents. The President of the Tribunal calls on each of the parties to reflect on, and give serious consideration to, the possibility of complying with the requests for documentation made by the other party. In addition, the President reminds the parties that non-compliance with such requests must be justified, or may lead to fair comment by the other side, or indeed adverse inferences by the Tribunal.

Finally, I take this opportunity to inform you that the President of the Tribunal wishes to commence the hearing at 9:00 a.m. on Monday, June 21, 1999. The hearing will take place in Conference Room H1-200, located on the first floor of the World Bank's "H" building, at 600 19<sup>th</sup> Street, N.W. (entrance on 19<sup>th</sup> Street between G and F Streets). Please find attached a floor plan of Conference Room H1-200, on which a seating arrangement has been marked in consultation with the Tribunal. Break-out rooms will be available in the building for each of the parties.

Further to the names already announced by the parties, we would appreciate receiving from each party a complete list of the persons who will be attending the hearing on their behalf. Admission passes will be issued in advance for such persons at the lobby of the "H" building, and may be collected by showing photo identification.

Sincerely yours,



Alejandro A. Escobar  
Secretary of the Tribunal

Attachment

cc (with attachment):

Mr. Jan Paulsson  
Mr. Benjamin R. Civiletti  
Mr. Claus von Wobeser