

IN THE MATTER OF THE ARBITRATION PROCEEDINGS PURSUANT TO NAFTA  
CHAPTER 11 AND THE UNCITRAL RULES

BETWEEN

GAMI INVESTMENTS INC.

**Claimant**

AND

THE GOVERNMENT THE UNITED MEXICAN STATES

**Respondent**

Procedural Order No.5

7 April 2004

*Considering* paragraph 9.1 of Procedural Order No. 1;

*Considering* the instructions of the Arbitral Tribunal to the Parties during the hearing on 30 March 2004;

*Considering* the request of the representatives of the United States of America and Canada as expressed at the hearing on 30 March 2004;

THE ARBITRAL TRIBUNAL HEREBY RULES:

**1. NAFTA Party Submissions**

The United States of America and Canada may file submissions under Article 1128 of the NAFTA by 21 May 2004. The Respondent is requested to so inform the representatives of the United States of America and Canada.

**2. Post-Hearing Submissions**

Pursuant to paragraph 9.1 of Procedural Order No.1, the Parties shall be at liberty to file post-hearing submissions by 21 May 2004.

The purpose of these submissions is to comment on matters that arose from testimony or questions by the Arbitral Tribunal in the course of the hearing during the week of 29 March 2004.

The Arbitral Tribunal wishes the post-hearing submissions to deal with the following questions with particular care (although there is no need to repeat oral closing submissions). *Each is to be answered exclusively by reference to evidence which has already been filed in these proceedings.*

- (A) What were the ultimate causes of the improved financial performance of GAM's mills (and others) after September 2001?
- (B) To what extent is it correct that the Sugarcane Decree of 1991 created an obligation on the part of the Mexican Government to ensure direct and permanent regulation of the industry? How (if at all) is an *acuerdo* to be distinguished from a unilateral governmental regulation in its legal effect?

- (C) Was there a material change in the efficacy of regulatory implementation post-September 2001?
- (D) What evidence is there of written complaints or other initiatives by GAMI in reaction to perceived regulatory malfeasance or nonfeasance? Would such evidence be legally significant?

**3. Rebuttal**

Each Party shall be at liberty to file a rebuttal submission by 4 June 2004, as well as comment on any submissions made by the United States of America and Canada.

**4. Evidence**

No new evidence shall be admissible at this stage of the proceedings.

**5. Submissions on Costs**

The Parties shall file their statements of costs by 14 June 2004. Each Party may comment on the other Party's statement by 21 June 2004.



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Jan Paulsson

for the Arbitral Tribunal