

International Centre for Settlement of Investment Disputes

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By email

October 15, 2010

Apotex Inc.
c/o Mr. William A. Rakoczy
Ms. Lara E. FitzSimmons
Mr. Robert M. Teigen
Rakoczy Molino Mazzochi Siwik LLP
6 West Hubbard Street, Suite 500
Chicago, Illinois 60654

United States of America
c/o Mr. Jeffrey D. Kovar,
Ms. Lisa J. Grosh
Mr. Mark E. Feldman
Office of International Claims and
Investment Disputes
Office of the Legal Adviser
United States Department of State
2430 E Street, N.W.,
Suite 203, South Building
Washington, D.C., 20037-2800

Re: Apotex Inc. v. United States of America
NAFTA/UNCITRAL Arbitration Rules Proceeding

Dear Sirs and Mesdames,

Attached please find a provisional agenda for the procedural meeting scheduled for November 30, 2010, which takes into account the agreements already reached on draft Procedural Order No 1, and sets out a few further items. The parties are also invited to let us know of any additional item they wish to address during the meeting.

With regard to draft Procedural Order No 1, please note that the Tribunal is agreeable to all of the parties' agreed amendments, except for the suggested deletion of the Tribunal's immunity from suit (Section VI). In the Tribunal's view, this is a standard and entirely reasonable provision. In so far as this is a contentious issue, The Tribunal requires submissions in advance of the November 30 meeting from each party, explaining the basis for this provision's deletion.

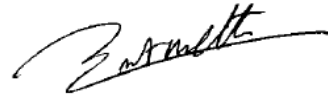
The Tribunal would also be assisted by written submissions from each party in advance of the November 30, 2010 meeting, elaborating on the remaining disagreements between them as set out in the annotations to draft Procedural Order No 1 - and in particular on the Claimant's application to stay the second arbitration, pending resolution of the first arbitration. Therefore, the Tribunal hereby directs as follows:

- that, by October 29, 2010, the Claimant file a submission explaining in detail the precise grounds upon which it seeks such a stay; detailing the differences between the two cases; detailing the prejudice it will suffer if the two cases proceed concurrently; and setting out a suggested procedural schedule for both arbitrations (with proposed dates); and
- that, by November 12, 2010, the Respondent file a reply, including its own suggested procedural schedule (and proposed dates).

Whilst the Tribunal is unable to establish a procedural timetable before deciding on the structure of these proceedings, the Tribunal is keen that work on this case gets underway in the meantime, so that the intervening weeks are not entirely lost. To this end, the Tribunal wishes to indicate to the Claimant that in setting a date for service of its Statement of Case (at least in respect of its first Notice of Arbitration), the Tribunal will take into account (at least in part) the time that will have elapsed before the November 30 meeting.

Please note that the meeting will be held at the World Bank Facility located at 1818 H Street, NW, Washington, DC, 20433. Suggested starting time is 9.30 am. The parties will receive the necessary information to access the hearing room in due course. They are invited to let us know the names of the participants for each party by November 19, 2010.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aurélia Antonietti', written in a cursive style.

Aurélia Antonietti
Secretary of the Tribunal

Attachment: Provisional Agenda for the meeting

cc with attachment: Members of the Tribunal