

NAFTA Chapter 11/UNCITRAL Cattle Cases
Consolidated Canadian Claims v United States of America
The Tribunal: Mr. James Bacchus and Ms. Lucinda Low (Co-Arbitrators)
Prof. Karl-Heinz Böckstiegel (Chairman)

November 7, 2006

Procedural Order (PO) No.2
Regarding the place of the Hearing on the Preliminary Issue

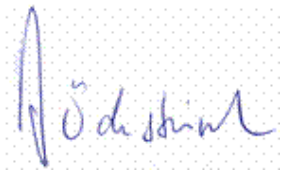
1. The Tribunal has carefully examined the arguments and considerations submitted by the Parties regarding the selection of the place of the Hearing on the Preliminary Issue presented at the Procedural Meeting in Washington D.C. held on October 3, 2006 (recorded in the transcript) and supplemented by their letters of October 31, 2006.
2. The Tribunal finds that the Parties have introduced and dealt with all arguments and considerations relevant in this context and that there is no need to repeat all these.
3. From these, the major considerations on which the Tribunal bases its decision in this matter are the following:
 - 3.1. As recorded in section 3.4. of PO No.1 of October 20, 2006, the Parties have agreed that Washington D.C. is the place of arbitration according to Art. 16 UNCITRAL Rule in this case. To hold hearings in places other than the official place of arbitration is on one hand possible under the UNCITRAL Rules, but, in the view of the Tribunal, would require compelling arguments for such a choice.
 - 3.2. The Tribunal notes that the Parties have agreed that there is no reason from the standpoint of location of evidence to hold the Hearing in Calgary. The only specific argument in favor of choosing Calgary as the place of the Hearing is the proximity to the residences and work places of most Claimants in this consolidated case. However, since the Parties agreed at the Washington meeting that attendance of the more than 100 Claimants in the Hearing Room itself is not warranted or intended, and section 3.7. of PO No.1 records only the agreement on a one-way video conference transmission to a separate room, the Tribunal considers that a transmission from a Hearing in Washington D.C. to a separate room in Calgary could serve the same purpose. Respondent has informed the Tribunal that such a video transmission from Washington D.C. to Calgary can be arranged, and Claimants have not contested this.
4. Therefore, the **Tribunal decides as follows:**

4.1. The Hearing on the Preliminary Issue shall be held in Washington D.C.

4.2. The Parties shall try to agree on a joint proposal at which location the Hearing can be held in Washington D.C. at the agreed dates, and shall inform the Tribunal of this proposal by January 30, 2007.

4.3. The Parties shall try to agree on arrangements for a one-way video transmission of the Hearing to a room in Calgary where Claimants can view the proceedings, and shall inform the Tribunal in this regard by January 30, 2007.

On behalf of the Tribunal



Karl-Heinz Böckstiegel
Chairman of the Tribunal