



**United States Department of State**

*Washington, D.C. 20520*

*www.state.gov*

April 9, 2008

*By E-mail & Facsimile*

President Fali S. Nariman  
Professor S. James Anaya  
Mr. John R. Crook  
c/o Claudia Frutos-Peterson  
Secretary of the Tribunal  
ICSID, 1818 H Street, NW  
Washington, DC 20433

Re: *Grand River Enterprises et al. v. United States of America*

Dear Members of the Tribunal:

On behalf of Respondent United States of America, we briefly respond to Claimants' letter dated April 6, 2008. In that letter, Claimants again attempt to reopen document production issues in the face of the Tribunal's clear instruction that such issues in this matter are closed.<sup>1</sup> While the United States would not be opposed to a reasonable adjustment in the briefing and hearing schedule to accommodate Claimants' request for additional time, such an adjustment should not be tied to yet another document request by Claimants, in this instance seeking an unredacted copy of the Brattle Group report produced by the United States on March 28.

Claimants mischaracterize the U.S. document production on March 28 as "belated," "strategic," and "grossly prejudicial." To the contrary, the United States did not "withhold" the updated reports prepared by Pricewaterhouse Coopers ("PwC") for any amount of time; rather, the United States produced those reports to Claimants on the very day that the reports were released by NAAG to the United States, and on the very day that the reports were to be produced to Grand River in the New York litigation.

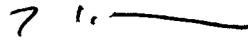
In addition, Claimants' attempt to tie their extension request to the production of an unredacted version of the Brattle Group report – seeking a 60-day extension that would run from the date of the document's production – should be rejected. NAAG has advised us that it is unaware of any production of an unredacted version of the Brattle Group report to any party in any forum. Thus, Claimants now demand the production of a document in international arbitration that has not been produced in multiple wide-ranging document productions conducted under expansive U.S. discovery rules, including Grand River's ongoing New York litigation. Claimants have provided no justification for asserting such a demand in these proceedings.

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<sup>1</sup> See Letter from Claudia Frutos-Peterson to the Parties, dated January 28, 2008.

Given that the issue of document production in this matter is closed, and for the reasons discussed above, Claimants' request for an unredacted version of the Brattle Group report, and their attempt to tie that request to an adjustment in the briefing and hearing schedule, should be rejected.

Respectfully submitted,



Mark E. Feldman  
Chief, NAFTA Arbitration  
Office of International Claims and  
Investment Disputes

Enclosures

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