

International Centre for Settlement of Investment Disputes

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January 28, 2008

By e-mail

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United States of America
c/o Ms. Andrea J. Menaker,
Mark E. Feldman and
Jeremy Sharpe
Office of International Claims and
Investment Disputes
United States Department of State
2430 E Street, N.W.
Suite 203, South Building
Washington, D.C. 20037-2800, U.S.A.

Re: Grand River Enterprises *et al* v. United States of America – NAFTA/UNCITRAL Arbitration Rules Proceeding

Dear Mesdames and Sirs,

In connection with the proceedings in the present case, the President of the Tribunal has asked me to inform you of the following:

The Tribunal has taken into account the Claimants' letter dated January 25, 2008, and all previous correspondence from the parties relating to the production of documents. The Tribunal now closes the question of production of documents. The parties are instructed, as specified below, to file such documents and correspondence as they deem appropriate. In this regard, each party is reminded that any un-explained non-production of relevant documents would be a matter of raising of inferences.

Further, having considered the parties' communications regarding the schedule for the merits, the Tribunal has decided as follows:

- (i) The Claimants shall file their Memorial by May 12, 2008. The Memorial should include all documentary evidence, witnesses' statements and experts' reports relied on by the Claimants.
- (ii) The Respondent shall file its Counter-Memorial by August 25, 2008. The Counter-Memorial should include all documentary evidence, witnesses' statements and experts' reports relied on by the Respondent.
- (iii) Canada and Mexico's observations in accordance with NAFTA Article 1128 and any amicus curiae submissions shall be filed by September 22, 2008.
- (iv) The Claimants shall file their Reply by October 20, 2008. Only rebuttal evidences and/or testimonies are permitted in the Reply.
- (v) The Respondent shall file its Rejoinder by December 15, 2008. Only rebuttal evidences and/or testimonies are permitted in the Rejoinder.
- (vi) The hearing on the merits will take place from February 2-13, 2009, in Washington D.C., at the seat of the Centre, continuing for a third week if required. The Tribunal will consider requests to conduct proceedings at another location if there are compelling reasons to do so. It will consider any such requests in light, *inter alia*, of the costs and inconvenience to all participants potentially affected. The Tribunal expects to consult with the parties regarding procedural issues related to the hearing.
- (vii) The location of the hearing is without any prejudice with respect to the seat of the arbitration, which has not been decided yet. In this respect, the Tribunal will revert to the parties in due course.
- (viii) At least 15 days prior to the hearing, each party shall communicate to the Tribunal and to the other party information regarding witnesses it expects to call, as provided in Article 25(2) of the UNCITRAL Rules, which apply in this proceeding.
- (ix) Two weeks prior to the hearing, parties should prepare and file a core bundle of documents, containing copies of all documents (not pleadings) which each party considers important and relevant. The core bundle is

intended to focus the attention of the parties and of the Tribunal to the most important documents in the case which should be in manageable volume/volumes with table of contents and tabs for ease of study and of reference at the hearing: parties are encouraged to consult with each other with a view to preparing an agreed core bundle of important documents: this will leave each of the parties free to refer to documents not in the core bundle if and when they consider it to be necessary.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'C. Frutos-Peterson', written in a cursive style.

Claudia Frutos-Peterson
Secretary of the Tribunal

cc:
Members of the Tribunal