

**MINUTES OF ORDER OF
THE FIRST PROCEDURAL MEETING HELD
BY TELEPHONE CONFERENCE CALL
ON THURSDAY, 29 JUNE 2000**

The Meeting was attended by the three members of the Tribunal (J. William Rowley QC, Warren Christopher Esq; and VV. Veeder QC); and the spokesmen for each party were as follows: Mr Casey for the Claimant and Mr Barton Legum for the Respondent. The other participants were Ms Mills for the Claimant and Mr Birnbaum and Ms Menaker for the Respondent.

Item 1: the Parties' Legal Representatives

It was agreed that, as soon as practicable, each of the disputing parties shall formally confirm to the Tribunal the authority and identity of its legal representatives, by letter of authority or power of attorney, to whom all notices may be validly sent by fax or letter for the purposes of these arbitration proceedings; namely:

(i) For the Claimant:

J. Brian Casey Esq, and
Janet E. Mills Esq.

Address:

Baker & McKenzie
BCE Place, 181 Bay Street, Suite 2100
PO Box 874, Toronto
Ontario M5J 2T3
Canada
By Fax: 00 1 416 863 6275

(ii) For the Respondent:

Michael J. Matheson Esq (Acting Legal Adviser),
Ronald J. Bettauer Esq (Deputy Legal Adviser),
Mark A. Clodfelter Esq (Assistant Legal Adviser for International Claims and Investment Disputes),
Barton Legum Esq (Chief, NAFTA Arbitration Division, Office of International Claims and Investment Disputes),
Alan J. Birnbaum Esq, and

Andrea J. Menaker Esq (Attorney-Adviser, Office of International Claims and Investment Disputes)

Address:

Mark A. Clodfelter Esq
Barton Legum Esq
Office of the Legal Adviser (L/CID)
United States Department of State
2430 E Street, N.W.
Suite 203, South Building
Washington DC 20047-2800
USA
By Fax: 00 1 202 776 8389

Item 2: The Parties

The Parties confirmed their legal names and their addresses, respectively as follows:

(i) **The Claimant**

Methanex Corporation, the Disputing Investor and Claimant, is a company originally incorporated under the laws of Alberta, Canada and then continued under the Canada Business Corporations Act, of 1800 Waterfront Centre, 200 Burrard Street, Vancouver, British Columbia, Canada V6C 3M1; and

(ii) **The Respondent**

The United States of America, the Disputing Party and Respondent, represented by the US Department of State, The Executive Director, Office of the Legal Adviser, 2201 C. Street N.W., Room 5519, Washington D.C. 2050, USA.

Item 3: Arbitral Jurisdiction

The disputing parties confirm that the Tribunal derives its jurisdiction (if any) from the North American Free Trade Agreement ("NAFTA"), Chapter Eleven, Article 1122. That jurisdiction is alleged by the Claimant; but it is not (at least, at present) agreed by the Respondent.

Item 4: UNCITRAL Arbitration Rules

In the exercise of its jurisdiction (if any), the disputing parties confirmed the Tribunal's application of the UNCITRAL Arbitration Rules to these arbitration proceedings, subject to applicable provisions of NAFTA.

Item 5: Seat of the Arbitration

The disputing parties were invited to identify the "*place of arbitration*" under Article 16 of the UNCITRAL Arbitration Rules and Article 1130 of NAFTA (i.e. the legal place or seat of the arbitration, as distinct from the geographical place of the hearing or hearings). The Tribunal was informed that this matter is currently in dispute between the parties; and if remaining in dispute, it will be addressed by the disputant parties and the Tribunal at the Second Procedural Meeting.

Item 6: Commencement of the Arbitration

Pursuant to Article 3(2) of the UNCITRAL Arbitration Rules and Article 1137 of NAFTA, the disputing parties confirm that these arbitral proceedings are deemed to have commenced upon the Respondent's receipt of the Claimant's Notice of Arbitration: i.e. 3 December 1999.

Item 7: Disclosure and Challenge

Each member of the Tribunal having confirmed to both disputing parties, pursuant to Article 9 of the UNCITRAL Arbitration Rules, that to his own knowledge there are no circumstances likely to give rise to justifiable doubts as to his impartiality or independence, the Claimant and the Respondent each confirmed that neither, on the materials now known to it, challenges or intends to challenge any member of the Tribunal or the composition thereof.

Item 8: Language

The disputing parties confirmed that the English language is the agreed language to be used in these proceedings, pursuant to Article 17 of the UNCITRAL Arbitration Rules.

Item 9: Pleadings

The Claimant shall re-serve on each member of the Tribunal copies of its Notice of Arbitration, its Statement of Claim of 3 December 1999 and accompanying schedule(s) as soon as practicable.

As regards service of further pleadings, as set out in their letter dated 29 June 2000 to the Tribunal, the parties agreed the following time-table:

Statement of Defence:	<i>11 August 2000</i>
Statement of Reply (if required)	<i>28 August 2000</i>
Statement of Rejoinder (if required):	<i>14 September 2000</i>

(The timing of any further written pleadings, under Articles 19, 20 and 22 of the UNCITRAL Arbitration Rules or otherwise, may be addressed at the Second Procedural Meeting or subsequent meetings).

It was also agreed that non-service of a Statement of Reply or Statement of Rejoinder would not be taken as any admission of any matter in the adverse party's previous pleadings but rather as a formal denial of any matters there pleaded which had not previously been expressly admitted by that non-serving party. It was understood that the parties' second pleadings (Reply and Rejoinder) should take the form of responses to the adverse party's pleading and not seek to re-plead what had already been pleaded in that party's pleadings.

Item 10: Production of Documents

The disputing parties agreed to address at a later date time for the making of any application for production of documents, under Article 24 of the UNCITRAL Arbitration Rules.

Item 11: Witness Statements

The disputing parties agreed to address at a later time the timing, form and content of any witness statements, under Article 25 of the UNCITRAL Arbitration Rules.

Item 12: Second Procedural Meeting and Main Hearing

(1) The Second Procedural Meeting

It was agreed to hold the Second Procedural Hearing on *Thursday, 7 September 2000* at the World Bank, Washington DC (preferably the Executive Board Room), to be arranged by the parties directly with the World Bank and/or ICSID. The disputing parties estimated the length of that hearing to be ½-1 day. The hearing will start at *0930 hours*, unless otherwise ordered by the Tribunal.

It was agreed that the place of this meeting should not affect either party's position in regard to the legal place or seat of the arbitration.

As regards materials to be raised at the Second Procedural Meeting, as modified from their letter dated 29 June 2000 to the Tribunal, the disputing parties agreed that the Claimant would file such materials no later than *16 August 2000*; and the Respondent no later than *1 September 2000*.

(2) The Main Hearing

The disputing parties, at this early stage of the proceedings, did not consider it useful or possible to estimate the likely date(s) or length of the Main Hearing.

Item 13: Arbitrators' Fees and Expenses

This matter was discussed but now forms the subject-matter of separate correspondence between the disputing parties and the Tribunal. (See also item 15:4 below).

Item 14: Interim Deposits

The disputing parties agreed to pay as soon as practicable a first interim deposit, under Article 41 of the UNCITRAL Arbitration Rules, in the sum of US\$100,000, i.e. US\$50,000 each (See also item 15:3 below).

Subject to the disputing parties agreeing satisfactory arrangements with ICSID, the said deposit shall be held by ICSID in an interest-bearing account, subject to ICSID's agreed charges, as agent for and to the order of the Tribunal.

The Tribunal reserves the right to call for further interim deposits as the arbitration proceeds; and it will inevitably do so.

Item 15: Matters listed in the Disputing Parties' letters dated 23 & 29 June 2000

15:1 Press Inquiries:

The parties expressed the view that it would be inappropriate for counsel of record for the parties to discuss this arbitration on the record with the press. On the other hand, given the parties' respective status as a publicly-held company and an open and democratic state, there should be no formal restriction on the parties' ability to discuss the case with the press to the extent either deems appropriate, subject to any agreement or order that may result from the discussions on disclosure mentioned below.

The parties suggested and the Tribunal agreed that members of the Tribunal should decline any press inquiries and refer such inquiries to both parties. With respect to inquiries concerning the backgrounds of the Tribunal members, the parties having discussed whether it would be appropriate to provide information from the curricula vitae provided by members of the Tribunal; and the Tribunal agreed to supply appropriate cvs to the parties for such purpose.

15:2 Public Disclosure of Documents: Pleadings, Orders and Awards

Although the disputing parties are continuing to discuss the issue of disclosure of documents concerning this arbitration, the parties reached an interim agreement that orders, awards (including interim awards) and pleadings may be made public by either party.

15:3 Advance on Costs: (see Item 14 above)

This matter has been addressed above.

15:4 Arbitral Fees and Expenses (see Item 13 above)

This matter has been addressed above.

15:5 Transmission of Documents

As to how the Tribunal wished to receive pleadings and documents from the disputing parties, the Tribunal decided that copies should be transmitted directly by the parties to each of the Tribunal members.

15:6 Further Submissions on Procedural Issues

This matter has been addressed above.

15:7 Pleadings (Item 9 above)

This matter has been addressed above.

15:A1 Quorum

Without prejudice to Article 31 of the UNCITRAL Arbitration Rules, the parties agreed that a quorum of three arbitrators was required for all oral hearings and actions taken by the Tribunal unless otherwise agreed to by the parties. (The disputing parties also clarified their intention by this agreement not to modify Article 31(2) of the UNCITRAL Arbitration Rules).

15: A2 Requests for Procedural Orders

The disputing parties agreed, as a general matter, that the Tribunal may address procedural matters based on written submissions and without any need for oral proceedings. It was also agreed that if a party wished to have an oral hearing with respect to a procedural matter, that party may request in writing that the Tribunal hold a hearing; but the Tribunal would decide whether such an oral hearing was necessary.

15: C1 Administrative Services

The disputing parties considered that the Tribunal might find it convenient to engage the services of an organisation or individual to administer the arbitration. Further consideration of this matter was deferred until the Second Procedural Meeting.

15:C2 Professional Assistance to Arbitrators

The parties having previously discussed the possibility that members of the Tribunal may desire to use a professional assistant to aid them during the course of the arbitration and decided to defer to the wishes of the Tribunal on this subject, the Tribunal declared its wish to take up the parties' offer. Any assistants would be separately paid and subject to the same duties of impartiality, independence and confidentiality borne by the members of the Tribunal.

At the end of the meeting, neither disputing party wished to raise any other substantive matter; and the telephone conference call terminated after about ninety minutes.

V. V. Veeder

(V. V. Veeder QC for the Tribunal)