

**IN THE ARBITRATION UNDER CHAPTER ELEVEN
OF THE NORTH AMERICAN FREE TRADE AGREEMENT
AND THE UNCITRAL ARBITRATION RULES**

BETWEEN:

**METHANEX CORPORATION,
Claimant/Investor,**

- and -

**UNITED STATES OF AMERICA,
Respondent/Party.**

SUBMISSION OF THE GOVERNMENT OF CANADA

1. Canada makes this submission pursuant to NAFTA Article 1128 and the Order of the Tribunal dated 10 October 2000. Canada welcomes the opportunity to respond to the request for *amicus curiae* status raised in the petition and statements dated 25 August 2000, 6 September 2000 and 16 October 2000 from the International Institute for Sustainable Development, and in the amended petition dated 13 October 2000 from the Communities for a Better Environment, Bluewater Network of Earth Island Institute and the Center for International Environmental Law (collectively referred to as the "Petitioners").
2. Canada supports greater openness in Chapter Eleven proceedings under the NAFTA and appreciates the contribution that transparency brings to building public confidence in the dispute settlement process. In this regard, though mindful of the confidentiality obligations imposed by Article 25(4) of the UNCITRAL Arbitration

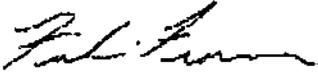
Rules,¹ Canada continues to support the open and public conduct of arbitral hearings and likewise, the disclosure of arbitral submissions and Tribunal orders and awards to the general public to the fullest extent possible.

3. Canada agrees with the United States that only NAFTA Parties have the right to make submissions on questions of interpretation of the NAFTA and other non-parties have no such right. Canada is mindful, however, of the public interest in these matters and is sympathetic to the interests of the Petitioners in this case to file written submissions as *amicus curiae*. Canada notes that neither the NAFTA nor the UNCITRAL Arbitration Rules expressly prohibit the participation of *amicus curiae*. In Canada's view, in this case, the Tribunal should accept the written submissions of the Petitioners. This is without prejudice to the position that Canada may take in other NAFTA Chapter Eleven cases.
4. At the same time, Canada recognizes the importance of ensuring uniformity and predictability in the rules and procedures governing the settlement of investment-state disputes. There are numerous and complex legal and technical issues raised by the question of whether and how a NAFTA Chapter Eleven tribunal should receive submissions from persons other than the disputing parties or the non-disputing NAFTA Parties, including who should be given standing to participate as an *amicus curiae* and the nature of such participation. To this end, Canada will ask its

¹ Article 25(4) of the UNCITRAL Arbitration Rules provides that "hearings shall be held *in camera* unless the parties agree otherwise".

NAFTA partners to work together on the issue of *amicus curiae* participation as a matter of urgency in order to provide guidance to Chapter Eleven tribunals.

Respectfully Submitted,



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10 November 2000