

James A. Wilderotter Esq
Jones, Day, Reavis & Pogue
51 Louisiana Avenue, N.W.
Washington D.C. 2001-21113, USA
By Fax: 00 1 202 626 1700

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

8th January 2001

Dear Colleagues,

Re: NAFTA Arbitration (Methanex)

Following the Tribunal's Procedural Order maintaining the existing procedural timetable made by letter dated 22nd December 2000, the Tribunal has received the Claimant's Application To Extend or Suspend the Current Jurisdictional Schedule dated 22nd December 2000. The Application also enclosed the Claimant's letter also dated 22nd December 2000 to the Respondent, containing the Claimant's Amended Notice of Intent to Submit a Complaint pursuant to Article 1119 of NAFTA. By letter dated 27th December 2000, the Tribunal invited the Respondent to respond in writing to the Claimant's Application; and on 3rd January 2001, the Respondent submitted its Reply to the Claimant's Request to Extend or Suspend the Current Briefing Schedule. In short, the Respondent opposes the Claimant's request.

By its Application dated 22nd December 2000, the Claimant requested the Tribunal to extend or suspend the timetable requiring the Claimant to serve its First Memorial on Jurisdiction and Admissibility by 12th January 2001. In summary, the Claimant here relied upon three principal grounds, namely: (i) the Claimants had been required to change counsel owing to a recent and unexpected conflict of interest; (ii) it would be inefficient to continue addressing the Respondent's jurisdictional objections to a claim which the Claimant desired to amend substantially; and (iii) if the Amended Statement of Claim were permitted by the Tribunal, the Claimant would contend that bifurcation of the jurisdictional objections from the merits would no longer be appropriate in these arbitration proceedings. The Claimant was now in a position to serve, without prejudice, 'a detailed draft outline of its amended claim' on 12th January 2001, its First Memorial on Jurisdiction and Admissibility (insofar as then relevant) on 12th February 2001; and its Amended Statement of Claim on 28th February 2001.

V. V. Veeder QC

Essex Court Chambers
24 Lincoln's Inn Fields
London WC2A 3ED

Telephone: (Int + 44) 20 7813-3000
Fax (as Arbitrator): (Int + 44) 20 7813-2024
Fax (as Counsel): (Int + 44) 20 7813-8080
E-mail: 100662.2602@compuserve.com

In its Reply, the Respondent contended that the Tribunal should not reconsider the existing timetable, recently maintained by its decision of 22nd December 2000 (which preceded the Claimant's Application). The Respondent contended that the Claimant's change of case is made belatedly on the basis of facts known for some time to the Claimant. As regards its change of counsel, it was the Claimant's "voluntary litigation choice"; the burden for the Claimant's new counsel was greatly exaggerated by the Claimant; and the Claimant's former counsel could and should have remained to deal with existing issues in accordance with the existing time-table. Delay will prejudice the Respondent, and efficiency is best achieved by maintaining the current schedule.

Having considered the Disputing Parties' respective written submissions and notwithstanding that there is much to be said for certain of the Respondent's submissions, the Tribunal maintains the existing procedural timetable with the following modifications:

- (1) *12.01.2001*: the Claimant shall serve, without prejudice, a detailed draft outline of its amended claim by 12th January 2001 taking the form (insofar as practicable) of a draft Amended Statement of Claim to be served in these arbitration proceedings under Article 20 of the UNCITRAL Arbitration Rules;
- (2) *12.02.2001*: Unless this draft has been served already, the Claimant shall serve its draft Amended Statement of Claim by 12th February 2001 taking the form of a draft amendment under Article 20 of the UNCITRAL Arbitration Rules;
- (3) *12.02.2001*: The Claimant shall serve its First Memorial on Jurisdiction and Admissibility by 12th February 2001, insofar as then considered relevant by the Claimant;
- (4) *20.02.2001*: As soon as practicable after 12th January 2001 but no later than 20th February 2001, the Respondent shall serve its initial response to the admissibility of the Claimant's draft amended claims and the Tribunal's jurisdiction to decide such claims. That response should be drafted for the particular purpose of facilitating the re-fixing of the procedural time-table; and the Respondent shall have a further opportunity, in writing, to address any new issues of admissibility and jurisdiction.
- (5) *22.02.2001*: The Tribunal hereby fixes a provisional meeting by telephone conference-call on Thursday, 22nd February 2001 to begin at 0800 hours (Los Angeles) and 1100 hours (Toronto and Washington DC). The Disputing Parties' legal representatives are requested to keep themselves free for this fixture, which shall be confirmed at a later date; and

(6) The Respondent's Reply Memorial on Jurisdiction and Admissibility shall be served at a date to be fixed later by the Tribunal in consultation with the Disputing Parties (i.e its service is no longer required by 23rd February 2001 under item 5 of the Minutes of Order of 7th September 2000).

The Tribunal intends as soon as practicable to reassess the procedural timetable (including bifurcation) after studying certain or all of these further materials from the Disputing Parties; and if necessary, the Tribunal may wish to hold a telephone conference-call with the Disputing Parties before 22nd February 2001.

Yours Sincerely,

V.V. Veeder

V.V. Veeder

cc. Mr William Rowley QC: by fax: 00 1 416 865 5519; and Mr Warren Christopher:
by fax: 00 1 310 246 8470.