

Marvin Roy Feldman Karpa
v.
United Mexican States
(ICSID Case No. ARB(AF)/99/1)

Procedural Order No. 1
Concerning the Place of Arbitration


1. At the first session of the Tribunal, held with the parties at the seat of the Centre on March 10, 2000, it was noted that, pursuant to NAFTA Article 1120, the proceeding is to be conducted in accordance with the Additional Facility Arbitration Rules, as modified by the provisions of NAFTA Chapter 11, Section B.

2. As regards the place of arbitration, NAFTA Article 1130 provides that, unless the parties otherwise agree, a Tribunal shall hold an arbitration conducted under the ICSID Additional Facility Rules in the territory of a NAFTA State Party, selected in accordance with such Rules. Under Articles 20 and 21 of the Additional Facility Arbitration Rules, the place of arbitration shall be selected by the Arbitral Tribunal after consultation with the parties and the Secretariat, and arbitration proceedings shall be held only in States that are parties to the 1958 U.N. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the 1958 U.N. Convention).

3. The Claimant's letter of February 15, 2000, proposed that the place of arbitration be fixed at the seat of the Centre. The Respondent's letter of March 6, 2000, proposed Mexico City as the place of arbitration. At the first session of March 10, 2000, the parties informed the Tribunal that they had not reached any agreement concerning the place of arbitration. Canada, the United Mexican States and the United States of America are all parties to the 1958 U.N. Convention.

4. Following deliberation on the matter, the Tribunal has found that a foremost consideration in this case is the selection of a place of arbitration that is perceived to be neutral in the light of the parties' disagreement on the matter. Having been asked at the first session whether the selection of a place in Canada could give rise to any legal obstacles that could affect the proceeding, neither party raised objections on this point.

5. In these circumstances, the Tribunal decides unanimously to fix the place of arbitration in Ottawa, Province of Ontario, Canada. The selection of the place of arbitration shall be without prejudice to the power of the Arbitral Tribunal to meet at any other place, with or without the parties, as may be convenient. This order is signed on behalf of the members of the Tribunal by its President:

 April 3, 2000

Konstantinos D. Kerameus
President of the Tribunal