

**NAFTA Chapter 11/UNCITRAL Cattle Cases
Consolidated Canadian Claims v United States of America
The Tribunal: Mr. James Bacchus and Ms. Lucinda Low (Co-Arbitrators)
Professor Karl-Heinz Böckstiegel (Chairman)**

August 3, 2007

**Procedural Order (PO) No.3
Regarding the Hearing on the Preliminary Issue**

After both Claimants and Respondent, by letters of August 2, 2007, have expressed their agreement with the draft for this PO, it is now issued in its final form:

1. Earlier Rulings

The Tribunal recalls the following agreements and earlier rulings in this procedure which remain valid unless changed by this Order:

1.1. From PO No.1:

*5.11. **From October 9 to 11, 2007, Hearing on the Preliminary Issue of up to 3 days.***

*10.4. **The Parties may present opening statements of not more than three hours.***

*10.5. **No new documents may be presented at the Hearing. But demonstrative exhibits may be shown using documents submitted earlier in accordance with the timetable.***

*10.6. **Taking into account the time available during the period provided for the Hearing in the timetable, the Tribunal intends to establish equal maximum time periods both for the Claimants and for the Respondent which the Parties shall have available. Changes to that principle may be applied for at the latest at the time of the Pre-Hearing Conference.***

*10.7. **All substantive hearings including the Hearing on the Preliminary Issue shall be simultaneously transcribed using a live transcription software system, with the delivery to the parties and members of the Tribunal of daily transcripts each evening after the close of the hearing.***

Procedural hearings shall be recorded, but not transcribed, unless otherwise agreed.

The Parties, who shall share the respective costs, shall try to agree on and make the necessary arrangements in this regard. With regard to the Hearing on the Preliminary Issue, the Parties shall inform the Tribunal accordingly before the time of the Pre- Hearing Conference as provided in the timetable.

1.1. **From PO No.2:**

4.1. *The Hearing on the Preliminary Issue shall be held in Washington D.C.*

4.2. *The Parties shall try to agree on a joint proposal at which location the Hearing can be held in Washington D.C. at the agreed dates, and shall inform the Tribunal of this proposal by January 30, 2007.*

4.3. *The Parties shall try to agree on arrangements for a one-way video transmission of the Hearing to a room in Calgary where Claimants can view the proceedings, and shall inform the Tribunal in this regard by January 30, 2007.*

1.2. **Agreement on location and video transmission**

By Claimants' letter of January 30, 2007, the Tribunal was notified that the Parties had agreed

to hold the Hearing at the **Army and Navy Club of Washington D.C.** located at 901, 17th Street N.W.

and that board room facilities at the Calgary, Alberta, offices of Hennan Blaikie will serve as the place where Claimants can view the proceedings via **one way video transmission**.

1.3. **Agreement on Transcript**

By Claimants' letter of July 12, 2007, the Tribunal was notified that the Parties would shortly report on the final arrangements regarding the simultaneous transcription of the oral Hearing.

2. In order to facilitate references to exhibits the Parties rely on in their oral presentations, and in view of the great number of exhibits submitted by the Parties to avoid that each member of the Tribunal has to bring all of them to the Hearing, the Parties are invited to bring to the Hearing :

for the other Party and for **each** member of the Tribunal **Hearing Binders** of those exhibits or parts thereof on which they intend to rely in their oral presentations at the hearing, together with a separate consolidated Table of Contents of the Hearing Binders of each Party,

for the use of the Tribunal, **one full set of all exhibits** the Parties have submitted in this procedure, together with a separate consolidated Table of Contents of these exhibits.

3. The **Agenda of the Hearing** shall be as follows:

- 3.1. Short Introduction by Chairman of Tribunal.
- 3.2. Opening Statement by Respondent of up to 3 hours.
- 3.3. Opening Statement by Claimants of up to 3 hours.
- 3.4. Questions by the Tribunal,
and suggestions regarding particular issues to be addressed in more detail in Parties' 2nd Round Presentations.
- 3.5. 2nd Round Presentation by Respondent of up to 2 hours.
- 3.6. 2nd Round Presentation by Claimants of up to 2 hours.
- 3.7. Final questions by the Tribunal.
- 3.8. Discussion on whether Post-Hearing Briefs are deemed necessary and of any other issues of the further procedure.

Members of the Tribunal may raise questions at any time considered appropriate.

4. **Timing** (unless otherwise agreed at the beginning of or during the Hearing):

1st day: Start at 9:00.

Agenda items 3.1. and 3.2.

After lunch: Agenda items 3.3. and 3.4.

Depending on the actual time used by the Parties for their Opening Statements, coffee breaks and the lunch break will be taken at convenient times.

2nd day: Start at 9:00.

Continuation of Agenda item 3.4., if found to be necessary, and Agenda items 3.5. to 3.8., if they can be completed on that day, with coffee breaks and a lunch break at a convenient time.

3rd day: As foreseen in PO No.1, October 11 will also be blocked for a continuation of the Hearing if that is found to be necessary in consultation between the Parties and the Tribunal during the course of the earlier parts of the hearing.

5. The Parties are invited to submit, **by September 14, 2007**, a list of the names and functions of the persons who will be attending the Hearing from their respective sides.

On behalf of the Tribunal



Karl-Heinz Böckstiegel
Chairman of the Tribunal