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SENT BY ELECTRONIC MAIL

Ottawa, February 15, 2010

The Hon. Charles N. Brower
Iran-United States Claims Tribunal
Parkweg 13
NL-2585 JH The Hague
THE NETHERLANDS

Gabrielle Kaufmann-Kohler
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SWITZERLAND

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Lauterpacht Centre for International Law
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UNITED KINGDOM

Dear Members of the Tribunal:

RE: *Chemtura Corporation v. Government of Canada*

We refer to the Tribunal's letter of 23 December 2009 inviting the parties to file their statements of costs no later than today. The Claimant has, accordingly, prepared the brief submissions below and a detailed costs statement, enclosed as Appendix A. Invoices in support of the amounts detailed in Appendix A are available should the Tribunal so require.

The Claimant submits that in the event it is successful in all aspects of its pending claims, it should be awarded its costs of the arbitration and its costs of legal representation, for the reasons set forth below. Alternatively, should success be mixed or should the Claimant prove unsuccessful in its claims, it is submitted that it would be appropriate in the circumstances of this case for the costs of the arbitration to be shared equally between the disputing parties and for each party to bear the costs of its own legal representation.

I. The Legal Framework

Article 1135 of the NAFTA provides that a "tribunal may … award costs in accordance with the applicable arbitration rules." Article 38 of the UNCITRAL Arbitration Rules (the "**UNCITRAL Rules**") states that the Tribunal shall fix the costs of the arbitration including, *inter alia*, the fees of the Tribunal, the travel and other expenses incurred by the arbitrators, the costs of expert advice and other assistance required by the Tribunal, the costs of travel and other expenses of witnesses, the costs for legal representation of the successful party, and the fees and expenses of the appointing authority.

Articles 40(1) and (2) of the UNCITRAL Rules further provide as follows:

> 1. Except as provided in paragraph 2, the costs of arbitration shall in principle be borne by the unsuccessful party. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
>
> 2. With respect to the costs of legal representation and assistance referred to in article 38, paragraph *(e)*, the arbitral tribunal, taking into account the circumstances of the case, shall be free to determine which party shall bear such costs or may apportion such costs between the parties if it determines that apportionment is reasonable.
>
> […].

Thus, while the costs of the arbitration are, in principle, to be borne by the unsuccessful party, there is no presumption as regards the costs of legal representation. This should not, however, deter the Tribunal from awarding the successful party its legal representation costs where it is otherwise appropriate to do so. Indeed, it is the Claimant's case that it should be awarded its full costs in the event it has prevailed on its claims (see discussion in Part II below). In any event, the Tribunal has wide discretion to determine the reasonableness[1] of any costs claimed and to apportion the costs of the arbitration and of legal representation in almost any manner, taking into account the circumstances of the case.[2] This is confirmed in paragraph 14 of Procedural Order No. 1, dated 21 January 2008.

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[1] The "reasonableness" of a disputing party's claimed costs is to be determined by reference to Article 38(e), which states: "The arbitral tribunal shall fix the costs of arbitration in its award. The term 'costs' includes only … the costs for legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable." NAFTA tribunals have generally interpreted this as costs that are reasonable in light of the circumstances of the case. See *e.g.* *S.D. Myers, Inc. v. Canada*, UNCITRAL (NAFTA), Final Award (30 December 2002) ("***S.D. Myers***") at para. 40 (Canada's Authorities, R-321); *Methanex Corp. v. United States*, UNCITRAL (NAFTA), Final Award (3 August 2005) at para. 12 (Claimant's Memorial Authorities, Vol. 6, Tab 42).

[2] See the discussion of the flexibility inherent in Article 40 of the UNCITRAL Rules in David Caron, Lee Caplan and Matti Pellonpää, *The UNCITRAL Arbitration Rules: A Commentary* (Oxford: OUP, 2006) at p. 948.

The practice of NAFTA tribunals in respect of costs awards is varied. Where success is mixed, as is most often the case,[3] the costs of the arbitration are usually shared equally by the disputing parties and each party may be ordered to bear its own costs of legal representation. This is consistent with the general practice in international arbitration, as it is rare for the "winner" in an arbitration to have been wholly successful on all of the issues in dispute in the arbitration.[4]

NAFTA tribunals have identified several considerations relevant to the matters of costs. In *Azinian v. Mexico*, the tribunal set out four factors which informed its decision not to award costs again the unsuccessful claimant, with the result that each party was required to bear its own costs of legal representation and the costs of the arbitration were shared equally:

> The claim has failed in its entirety. The Respondent has been put to considerable inconvenience. In ordinary circumstances it is common in international arbitral proceedings that a losing claimant is ordered to bear the costs of the arbitration, as well as to contribute to the prevailing respondent's reasonable costs of representation. This practice serves the dual function of reparation and dissuasion.
>
> In this case, however, four factors militate against an award of costs. First, this is a new and novel mechanism for the resolution of international investment disputes. Although the Claimants have failed to make their case under the NAFTA, the Arbitral Tribunal accepts, by way of limitation, that the legal constraints on such causes of action were unfamiliar. Secondly, the Claimants presented their case in an efficient and professional manner. Thirdly, the Arbitral Tribunal considers that by raising issues of defective performance (as opposed to voidness *ab initio*) without regard to the notice provisions of the Concession Contract, the Naucalpan Ayuntamiento may be said to some extent to have invited litigation. Fourthly, it appears that the persons most accountable for the Claimants' wrongful behaviour would be the least likely to be affected by an award of costs; Mr. Goldenstein is beyond this Arbitral Tribunal's

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[3] The tribunal in *S.D. Myers* aptly observed that "success is rarely an absolute commodity". *S.D. Myers* at para. 16 (Canada's Authorities, R-321). In that case, the claimant succeeded on liability but not as to the full extent of its pleaded case and was awarded a fraction of the damages claimed. The tribunal determined that as neither party had achieved "absolute success", it was appropriate in the circumstances of the case to apportion the costs of the arbitration between the parties and award the investor some of its costs of legal representation. The tribunal, in *Thunderbird Gaming* reached a similar result in allocating costs, albeit through a different interpretation of the UNCITRAL Rules. The Tribunal considered that the "more objective benchmark for both types of costs is the rate of success of a party". *International Thunderbird Gaming Corp. v. Mexico*, UNCITRAL (NAFTA), Award (26 January 2006) ("***Thunderbird Gaming***") (Claimant's Memorial Authorities, Vol. 2, Tab 1) at para. 218. As the Respondent State (Mexico) had prevailed on most issues, both legal and arbitration costs were divided ¾ to ¼ in favour of Mexico. *Ibid.* at paras. 220-221.

[4] See Alan Redfern and Martin Hunter, *Law and Practice of International Commercial Arbitration*, 4th ed. (London: Sweet and Maxwell, 2004) at para. 8-95.

> jurisdiction, while Ms. Baca – who might as practical matter be the most solvent of the Claimants – had no active role at any stage.[5]
>
> [Emphasis added.]

While subsequent tribunals have dropped this first factor,[6] *i.e.* the novelty of the Chapter 11 dispute mechanism, the second and third factors in particular continue to be relevant to, if not decisive in, many costs awards. To this list may be added the difficulty, complexity and novelty of the issues raised by the disputing parties, as well as considerations of equity and fairness.

In *Pope & Talbot, Inc. v. Canada*, the investor prevailed on liability, but not as to the full extent of its pleaded case, and was awarded a fraction of the damages claimed. The Respondent State (Canada) argued that while technically the investor may have won the arbitration it was unsuccessful in all of the major issues raised and for that reason should be required to pay the legal costs incurred by Canada. The tribunal rejected this approach, noting that the arbitration had raised a number of important and novel issues relating to NAFTA Chapter 11, as well as complex issues of fact and law, and reasoning that "it is over simplistic to treat this case as one where the investor 'won' and therefore should recover costs, or where Canada 'really won' having regard to the very limited degree of success of the Investor and should therefore recover costs."[7] Instead, the tribunal took "an overall view of the case" and concluded that, as success was mixed, each party should bear its own legal costs and the costs of the arbitration should be apportioned in favour of the investor.[8]

This was also the approach taken in *Glamis Gold, Ltd. v. United States* even though, unlike *Pope & Talbot*, the investor was unsuccessful on its claims. The tribunal held that the investor had raised difficult and complex issues based on an unsettled area of law and therefore should not be burdened with all of the costs of the proceedings. Accordingly, each disputing party bore its own legal representation costs and an apportionment was made in respect of the costs of arbitration:

> The Tribunal notes that, under the UNCITRAL Rules, the costs of the arbitration, if not those of representation, would shift to Claimant as it has indeed failed with respect to both of its claims. The Tribunal finds, however, that Claimant raised difficult and complicated claims based in at least one area of unsettled law, and both Parties well argued their

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[5] *Azinian, Davitian & Baca v. United Mexican States*, ICSID Case No. ARB(AF)/97/2, Award (1 November 1999) ("***Azinian***") at paras. 125-126 (Canada's Authorities, R-154).

[6] See, for example, *Thunderbird Gaming*, where the tribunal observed that, as NAFTA arbitration is now a well-known and established mechanism for the resolution of investment disputes, the first *Azinian* factor is no longer relevant. *Thunderbird Gaming* at para. 218 (Claimant's Memorial Authorities, Vol. 2, Tab 1).

[7] *Pope & Talbot, Inc. v. Canada*, UNCITRAL (NAFTA), Award on Costs (26 November 2002) ("***Pope & Talbot***") at paras. 7-9 (Canada's Authorities, R-320).

[8] *Ibid.* at para. 17. Specifically, the tribunal considered it reasonable to award some costs of the arbitration to the investor in respect of a particular portion of the proceeding. *Ibid*. at para. 18.

> positions with considerable legal talent and respect for one another, the process and the Tribunal. The Tribunal therefore determines that Claimant shall bear two-thirds of the arbitral costs and Respondent shall bear the remaining one-third. Each party shall bear its own costs of representation.[9]

In *ADF Group, Inc. v. United States*, where the Respondent State (United States) successfully defended the investor's claims, no award of costs was made. The tribunal considered the circumstances of the case, including the nature and complexity of the questions raised by the disputing parties, and declined to make a costs award in favour of the United States, ordering each party instead to bear its own legal costs and to share the costs of the arbitration.[10]

Again, in *United Parcel Service of America, Inc. v. Canada,* the tribunal ordered that the parties bear the costs of the arbitration equally and bear their own legal costs, even though the ivnestor's claims were rejected in their entirety.[11] The tribunal's costs decision was stated concisely, however, it may be gleaned from the award that the arbitration involved complex and difficult issues related to the interpretation of several provisions of Chapter 11 of NAFTA.

In *Mondev International Limited v. United States*, the tribunal dismissed the investor's claim in its entirety but declined to make an award of costs.[12] The Respondent State (United States) argued that the investor should pay the costs of the arbitration and the United States' legal expenses on the grounds that the investor's claim was unmeritorious and should never have been brought. The tribunal rejected this argument, noting that the Respondent's success was not absolute, the "scope and meaning of various provisions of Chapter 11 is a matter both of

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[9] *Glamis Gold, Ltd. v. United States of America*, NAFTA (UNCITRAL), Award (8 June 2009) ("***Glamis***") at para. 833 (Canada's Authorities, R-345).

[10] *ADF Group, Inc. v. United States*, ICSID Case No. ARB(AF)/00/1, Award (9 January 2003) ("***ADF***") at para. 200 (Claimant's Memorial Authorities, Vol. 2, Tab 10). See also *Fireman's Fund Insurance Co. v. Mexico*, ICSID Case No. ARB(AF)/02/1, Award (14 July 2006) at paras. 220-221 (Canada's Authorities, R-188) (Although the Respondent State (Mexico) prevailed on a preliminary question, the tribunal observed that the "Preliminary Question was a close one" and the investor had "respectable claims on the merits").

[11] *UPS v. Canada*, UNCITRAL (NAFTA), Award (24 May 2007) at para. 188 (Claimant's Reply Authorities, Vol. 4, Tab 25). See also *Canadian Cattlemen for Fair Trade v. United States,* (UNCITRAL (NAFTA), Award on Jurisdiction (28 January 2008) (Canada's Authorities, R-163), in which the tribunal determined that although the claimant was successful on jurisdiction, it was reasonable taking into consideration the circumstances of the case that each party bear 50% of the costs of arbitration and their own costs of legal representation. *Ibid*. at paras. 230, 232.

[12] *Mondev International Limited v. United States*, ICSID Case No. ARB(AF)/99/2, Award (11 October 2002) ("***Mondev***") (Claimant's Memorial Authorities, Vol. 2, Tab 8). While not conducted under the UNCITRAL Rules, the tribunal considered similar factors to those set out by the tribunal in *Azinian*, which appear to have guided NAFTA tribunals constituted under both the UNCITRAL Rules and the ICSID Additional Facility Rules.

uncertainty and of legitimate public interest", and the investor lost on "rather technical grounds" as there was evidence of conduct unfair to the investor.[13]

In *Metalclad v. Mexico*, the tribunal also determined that it was "equitable" for each party to bear its own costs and fees of the proceeding and to split the costs of the arbitration,[14] even though the investor had prevailed on the merits. Considerations of equity and fairness in apportioning costs are also common outside of the NAFTA context as well.[15] For example, in *EnCana v. Ecuador*, an investment treaty arbitration under the UNCITRAL Rules, the tribunal determined that although the Respondent State (Ecuador) had prevailed in the arbitration, it was "just and equitable" for Ecuador to pay the costs of arbitration and for each party to bear its own legal costs.[16]

II. Submissions on the Allocation of Costs in the Present Arbitration

A. Novel and Complex Issues

While both State Parties to NAFTA and investors have garnered greater experience with Chapter 11 over the past 15 years, the experience has in some respects led to greater complexity in interpreting and applying certain provisions, such as Article 1105. Moreover, other provisions have yet to receive much (if any) attention, such as Article 1103. The strong public interest in the operation of these provisions is borne out by the participation of the other NAFTA Parties in this arbitration, requiring the claimant to respond not only to Canada's arguments but, in effect, the arguments marshalled by three State Governments.

It is further recalled that during the course of this arbitration and after the filing of the Claimant's last written submission, the *Glamis* tribunal rendered its award rejecting the investor's Article 1105 claim with reasoning that arguably marked a departure from the approach taken by other NAFTA arbitral tribunals. In so doing, that tribunal remarked that the law in this area was unsettled.[17] Indeed, this Tribunal's award will contribute to the growing body of arbitral awards

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[13] *Ibid.* at para. 159 (emphasis added).

[14] *Metalclad v. Mexico*, ICSID Case No. ARB(AF)/97/1, Award (30 August 2000) at para. 130 (Claimant's Memorial Authorities, Vol. 2, Tab 4).

[15] Caron, Caplan and Pellonpää, *The UNCITRAL Arbitration Rules: A Commentary*, at p. 951.

[16] *Encana Corp. (Can.) v. Ecuador*, UNCITRAL (Canada-Ecuador BIT), Award (3 February 2006) at paras. 202-204 (Canada's Authorities, R-183). See also *LG&E Energy Corp., LG&E Capital Corp., and LG&E International Inc. v. Argentina Republic*, ICSID Case No. ARB/02/1, Decision on Quantum (25 July 2007) at para. 113 (Canada's Authorities, R-218). Although governed by the ICSID Convention and Arbitration Rules, the tribunal considered the approach to costs in several investment treaty arbitrations, including UNCITRAL arbitrations, prior to concluding that, as success was mixed, the case called for "an equitable allocation of costs" (*i.e.,* arbitration costs, expenses and attorney fees). In *National Grid Plc v. Argentine Republic*, UNCITRAL (UK/Argentina BIT), Award (3 November 2008), although the tribunal did not explicitly invoke equitable principles it ordered each party to bear the costs of its own legal representation, as success had been mixed, and allocated the arbitration costs ¾ - ¼ in favour of the claimant, who had prevailed in the jurisdictional phase. *Ibid.* at para. 295.

[17] See the discussion above and *Glamis* at para. 833 (Canada's Authorities, R-345).

which consider the obligations imposed on the NAFTA Parties by Article 1105 following issuance of the Free Trade Commission's Note of Interpretation.

In the circumstances of this factually complex case, which is at its core based on a pattern of conduct over a 10 year period, it would therefore be appropriate to award the Claimant all of its costs in connection with the arbitration and legal representation in the event of success, recognizing the hurdles presented both by the factual matrix and the state of the law surrounding NAFTA Articles 1105 and 1103. For the same reasons, it would be inappropriate to order the Claimant to bear any portion of Canada's costs in the event the Claimant is unsuccessful. There is unquestionably a public interest in the airing of investment disputes under the Chapter 11 dispute resolution mechanism and, in the Claimant's respectful submission, investors should not be deterred from availing themselves of that mechanism (or indeed, from investing in the NAFTA territory) out of fear of an adverse costs award, particularly in those cases raising difficult questions of fact and law.

B. Mixed Success

Although the Tribunal has yet to rule on the Claimant's claims, certain observations may be made in respect of the proceedings to date. No jurisdictional objection was brought by Canada. While Canada has at times cast aspersions on the Claimant with respect to the period of time from the filing of the original Notice of Intent through to commencement of this arbitration (without recognition of the re-evaluation proceeding running parallel to this arbitration before the Pest Management Regulatory Agency ("**PMRA**") in which the Claimant has also actively participated), it appears to have conceded that the claims notified were properly and timely brought. Moreover, after having abandoned its objection to the Claimant's Article 1103 claim, it was revived in closing oral argument only after the inquiry of the tribunal. Whatever the outcome of that objection, the Claimant submits that the above submissions should be borne in mind concerning the lack of experience in interpreting and applying this particular provision in Chapter 11 arbitrations.

It is also recalled that the tribunal's rulings on document production were partially favourable to both disputing parties. Documents which surfaced as a result of the Claimant's independent efforts to obtain documents through domestic access to information legislation and further requests during the Hearing revealed that regardless of the quality of Canada's efforts to search its files, its original production was incomplete, thereby forcing the Claimant to make adjustments to its case as the arbitration evolved.

C. The Conduct of the Parties

This arbitration is comparable to many other investment treaty arbitrations in which the disputing parties ardently plead their respective cases all the while respecting both the process and the Tribunal. There is no evidence here of dilatory or unprofessional tactics by either party.

As regards the efficiency of the process, the Claimant has sought, through these proceedings, the most efficient means of achieving a remedy for its losses. Such an approach has been necessitated not only by the Claimant's interest in an expedient and final resolution of a dispute that has lasted over a decade, but also by its financial status and declaration of bankruptcy in

2009. Accordingly, the Claimant has focused its submissions and evidence on the core issues which arise under each claim, and put forward fact and expert witnesses best positioned and knowledgeable to speak to those issues. Canada has, with all due respect, done the opposite. The contrast in the approach taken by the Claimant and Canada respectively to this case was most evident at the Hearing, in the size of the legal team employed by Canada, the inability of its witnesses to speak to those issues attested to in their own statements of evidence, the late production of documents, and the unnecessary introduction of expert evidence to reinterpret the conclusions reached by an independent panel of scientists, which speak for themselves.

D. Fairness

Beyond the conduct of the parties in this arbitration proceeding, NAFTA tribunals have also taken into consideration any underlying unfairness to the investor by the State which may have "invited litigation" in refraining to award costs in favour of the Respondent State, even where the Claimant has proved unsuccessful on its claims.[18] In this case, the record is replete with evidence of unfairness to the Claimant and of conduct by the PMRA which may be said to have invited litigation. The Tribunal has but to consider the Lindane Board of Review's conclusions on fairness, the evidence concerning the handling of the Claimant's replacement products, and the PMRA's lindane re-evaluation – after having deployed the same factors as used in the original review and several of the same individuals – to find circumstances which support a decision to, at a minimum, not award any costs in Canada's favour, even should it prevail on the merits, and to consider awarding costs in the Claimant's favour, regardless of its success on the merits.

III. Costs Incurred by the Claimant

A concise statement of the costs incurred by the Claimant in these proceedings is provided in Appendix A.

A. Arbitration Costs

As directed by the Tribunal, the parties to this arbitration have borne the costs of the arbitration equally. The Claimant has to date paid its share of these costs, amounting to US$410,000.00.

B. Legal Representation Costs

The Claimant incurred reasonable legal representation costs in these proceedings, including the fees and expenses of its legal counsel and those of its expert witnesses.

1. Legal Fees

Legal counsel to the Claimant spent a total of [***] hours on this arbitration. This time includes hours spent reviewing and assembling evidence, researching the applicable law and legal

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[18] See e.g. *Azinian* at para. 126 (Canada's Authorities, R-154); *Mondev* at para. 159 (Claimant's Memorial Authorities, Vol. 2, Tab 8).

principles, reviewing and drafting legal argument, and appearing before the Tribunal. The number of hours spent on this arbitration reflects the complexity and novelty of the legal issues involved, as well as the complexity of the factual matrix. The fees charged and hours spent by counsel are reasonable in this context, consistent with Article 38(e) of the UNCITRAL Rules.

The Claimant notes in this regard that, in contrast to Canada's expansive legal team, the Claimant retained a small team of lawyers with a depth of experience in international trade and arbitration matters and ranging in year of call in order to efficiently and cost effectively present its case.

2. Expert Fees

The Claimant retained two experts in these proceedings to provide expert advice on: (1) matters relating to the U.S. Environmental Protection Agency's ("**U.S. EPA**") handling of pesticide registrations and tolerance applications; and (2) the assessment of damages. Mr. James Aidala provided two expert reports in connection with the U.S. EPA's handling of pesticide registrations and tolerance applications, including those relating to lindane. Messrs. Pablo Spiller, Manual Abdala and Andres Chambouleyron also provided two expert reports on quantum. Only Messrs Abdala and Chambouleron appeared to testify before the Tribunal on behalf of the LECG team, thereby reducing the costs associated with this expert evidence.

Canada retained three experts in these proceedings, two of which were put forward to respond to the Claimant's case in respect of the U.S. EPA and damages. The Claimant has maintained throughout these proceedings that the evidence of Dr. Lucio Costa, with respect, was both unnecessary and self-serving as an *ex post* exercise in reinterpreting the plain findings of the Lindane Board of Review.

C. Witness Travel and Other Expenses

Witnesses for the Claimant were required to travel to Ottawa in order to prepare for and attend the hearings, thereby incurring costs associated with travel and lodging. Two of the Claimant's fact witnesses, who are not employed by the Claimant, were also compensated for their time spent in preparing for and attending the hearing. It is submitted that these costs, contemplated by Article 38(d) of the UNCITRAL Rules, should also be fixed in any costs award.

D. Disbursements

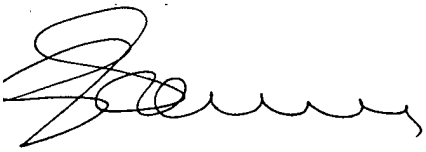
The Tribunal conducted two hearings, both of which took place in Ottawa where counsel for both disputing parties are located. As a result, no counsel were required to travel in order to attend either of these hearings. The Claimant did, however, incur costs for services and supplies required to pursue this arbitration, including photocopying charges, courier fees, court reporting and transcripts and room rental for the hearings.

IV. Conclusion

This arbitration raised novel and complex issues of both a factual and legal nature. To the extent the Claimant has prevailed on its claims, notwithstanding the challenges it has faced throughout

this arbitration, the Claimant submits that it ought to be awarded its costs of the arbitration and legal representation costs. Alternatively, in the event the Claimant has not prevailed on any of its claims or the result of the arbitration is mixed, the Claimant submits that it would be appropriate in the circumstances of the case to make no award as to costs, in the result allocating the costs of the arbitration equally between the disputing parties and requiring each party to bear the costs of its own legal representation.

Yours truly,



Gregory O. Somers
GOS/slw
c: Mr. Christophe Bondy c/o Government of Canada
Dr. Jorge E. Viñuales, c/o Lévy Kaufmann-Kohler

APPENDIX A

LEGAL FEES & DISBURSEMENTS:			
Timekeeper	**Hours Billed**	**CDN $**	**US $**
Gregory O. Somers	[***]	[***]	
Paul D. Conlin	[***]	[***]	
Benjamin P. Bedard	[***]	[***]	
Renée Thériault	[***]	[***]	
Alison G. FitzGerald	[***]	[***]	
Martha Healey	[***]	[***]	
Andrew Mason	[***]	[***]	
Disbursements:	[***]		
Courier/delivery charges	[***]		
Photocopying charges	[***]		
Hotel Accommodation	[***]		
Airfare	[***]		
Car Rental / Mileage / Parking	[***]		
Meeting Room	[***]		
Long distance/conference calls	[***]		
External DB Search/QuickLaw/LexisNexis	[***]		
Access to Information Consultant	[***]		
Meals	[***]		
Taxis	[***]		
Miscellaneous (bank charges)	[***]	[***]	
Goods & Service Tax (GST)		[***]	
OTHER EXPENSES:			
Government Conference Centre Hearing (September 2009) and Argument (December 2009)		**$15,716.37**	

Access to Information Requests – Photocopying and Processing fees charged by DFAIT and Health Canada		[***]	
Worldwide Reporting			**$ 22,165.66**
EXPERT AND CONSULTANT FEES AND DISBURSEMENTS			
James Aidala, ACTA Inc.	Preparing two expert reports in respect of the U.S. EPA's handling of pesticide registrations and tolerances, and in particular, as they concern lindane; attending the hearing as an expert witness.		[***]
Manuel Abdale, Pablo Spiller and Andres Chambouleyron (LECG LLC)	Preparing two expert reports containing an assessment of the Claimant's damages; attending the hearing as expert witnesses		[***]
Ed Johnson, Technology Sciences Group			[***]
Al Ingulli			[***]
ARBITRATION COSTS			
Date of Deposit			
22 February 2008			**$ 100,000.00**
25 May 2009			**$220,000.00**
16 December 2009			**$ 90,000.00**
TOTAL LEGAL & OTHER COSTS		**CDN$2,813,668.15**	**US$1,704,640.07**