Final Award

concerning the arbitration costs
of the Arbitral Tribunal
composed of

Dr. Pierre A. Karrer
Lavater-Strasse 98
CH – 8002 Zurich
TF: +41 44 287 33 33
FX: +41 44 387 33 34
karrer@pierrekarrer.com

Chairman appointed by the Arbitration Institute of the Stockholm Chamber of Commerce

in the matter of
UNCITRAL ad hoc arbitration
in Paris
SCC No. 088/2004

Mr. Robert Volterra
Latham & Watkins
99 Bishopsgate
GB – London EC2M 3XF
TF: +44 20 7710 1090
FX: +44 20 7374 4460
robert.volterra@lw.com
Arbitrator appointed by Eastern Sugar

Prof. Emmanuel Gaillard
Shearman & Sterling
114 Av. des Champs Elysées
FR – 75008 Paris
TF: +33 1 53 89 70 00
FX: +33 1 53 89 70 70
eygarrard@shearman.com
Arbitrator appointed by the Czech Republic

Eastern Sugar B.V. (Netherlands)
a company incorporated in the
Kingdom of the Netherlands
Indumastraat 9-13
NL – 5753 RJ Deurne

the parent company of Eastern Sugar Ceska Republika a.s.
both herein referred to, individually or collectively as appropriate
in the context, as Eastern Sugar
represented by:

Mr. Peter J. Turner
Mr. Mark Mangan
Freshfields Bruckhaus Deringer
2-4, rue Paul-Cézanne
FR – 75375 Paris Cédex 08
TF: +33 1 44 56 44 56
Fax: +33 1 44 56 44 00/01
peter.turner@freshfields.com
mark.mangan@freshfields.com

The Czech Republic
Ministry of Finance of the Czech Republic
Letenska 15
CS – 118 10 Prague 1
att. JUDr. Vaclav Rombald
vaclav.rombald@mfcr.cz
herein occasionally referred to as
The Republic

represented by:

Mr. Eric Teynier
Mr. Pierre Pic
Teynier, Pic & Associés
56, rue de Londres
FR – 75008 Paris
TF: +33 1 53 45 97 00
FX: +33 1 40 15 01 08
eric.teynier@teynier.com
pierre.pic@teynier.com
and

Mr. Daniel Weinhold
Weinhold Legal, v.o.s.
Karlovonam. 10
CZ – 120 00 Praha 2
daniel.weinhold@weinholdlegal.com
TF: +420 225 335 336
FX: +420 225 335 444

Agreement
011
encouragement and reciprocal protection of investments between the Kingdom of the Netherlands and the Czech and Slovak Federal Republic of April 29, 1991 (the BIT)
1. On December 6, 2004, the Arbitral Tribunal received the file from the Appointing Authority.

2. On May 3, 2005, the Arbitral Tribunal issued a Preliminary Award setting the seat of the arbitration in Paris, France.

3. On March 27, 2007, the Arbitral Tribunal issued a Partial Award concerning all other questions in the arbitration except the arbitration costs.

4. The present award is the Final Award in this arbitration concerning the arbitration costs only. The procedural history was set out in detail in the Partial Award of March 27, 2007.

5. The Arbitration Costs (Arbitrators' fees at the agreed hourly rate, and expenses, using the exchange rates of March 26, 2007) are EUR 856,719.50.

6. The Arbitral Tribunal adopts a "broad brush" costs-follow-the-outcome approach to the allocation of arbitration costs, which is what many arbitral tribunals do, no matter where they sit. This does not mean that the winner on balance takes all. On the contrary, it means that the costs must be borne in proportion to the outcome. The Arbitral Tribunal takes into account that the Czech Republic fails with its plea of lack of jurisdiction and its lack of its arbitrability defence and that the "high mark" of Eastern Sugar's claims, principal only, was EUR 109,078,000. It allocates 30% of the arbitration costs to the Czech Republic and 70% to Eastern Sugar.

7. Consequently, Eastern Sugar shall reimburse to the Czech Republic 20% of the arbitration costs, that is EUR 171,343.90.

8. Both sides made equal advances of EUR 500,000 plus CHF 20,000, each, totalling EUR 1,000,000, plus CHF 40,000. The EUR advance was put into an interest-bearing account which yielded EUR 22,854.93, bringing the total EUR advance up to EUR 1,022,854.93.

9. The unused balance is EUR 166,135.43 plus CHF 40,000.

10. The Parties shall receive equal reimbursement of half of the balance, thus EUR 83,067.71 plus CHF 20,000 each.
Based on the foregoing, the Arbitral Tribunal issues the following

Final Award

1. The arbitration costs are EUR 856,719.50
2. Eastern Sugar shall reimburse to the Czech Republic EUR 171,343.90.
3. The Arbitral Tribunal shall reimburse each Party EUR 83,067.71 plus CHF 20,000.

Seat of arbitration: Paris
Dated, 12. APR. 2007

The Arbitral Tribunal:

Pierre A. Karrer

Robert Volterra

Emmanuel Gaillard