

PROCEDURAL ORDER No. 6

October 15, 2005

Glamis Gold, Ltd., Claimant

v.

The United States of America, Respondent

An Arbitration Under Chapter 11 of the North American Free Trade Agreement (NAFTA), in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules, and administered by the International Centre for Settlement of Investment Disputes (ICSID)

Michael K. Young, President

David D. Caron, Arbitrator

Donald L. Morgan, Arbitrator

I. Procedural Background to this Decision

1. On June 21, 2005, the Tribunal Issued its Procedural Order No. 3 (“Order No. 3”) outlining a schedule of proceedings which, among other things, directed the Parties to identify and brief by August 11, 2005, Objections to Production upon which they wished the Tribunal to rule. Order No. 3 also reserved the date of August 19, 2005, for a hearing to address any unresolved document production issues.
2. The Tribunal’s Decision on Objections, dated July 20, 2005, extended the time to identify Objections that should be addressed until August 23, 2005, and rescheduled the hearing on unresolved document production issues for August 26, 2005.
3. By letter of August 19, 2005, the Parties requested a further extension to identify Objections that should be addressed until September 15, 2005, and proposed a tentative scheduling of a hearing for the week of September 26, 2005. The letter stated that no other change was requested in the schedule in Procedural Order No. 1, as amended. The Tribunal informally advised the Parties that the extension would be granted and suggested several possible hearing dates.
4. On August 26, 2005, the Tribunal issued its Procedural Order No. 4 that, among other things, confirmed the extension of the time for the Parties to identify Objections until August 26, 2005. A hearing on such Objections was tentatively scheduled for October 3, 2005.
5. On September 19, 2005, the Tribunal issued its Procedural Order No. 5, extending until September 16, 2005, the time for identification of Objections. Additionally, the Tribunal granted the Respondent until September 29, 2005, to file a

memorandum responding to Claimant's filing of September 16, 2005. The schedule for further proceedings was otherwise unchanged.

6. Claimant filed its Request for Production on Certain Documents Withheld by Respondent on September 16, 2005. Respondent filed its Response to Glamis's Request for Production of Privileged Documents on September 29, 2005.
7. On October 3, 2005, a hearing was conducted before the Tribunal in Washington, D.C. in the offices of the International Centre for Settlement of Investment Disputes at the World Bank.

II. The Views of the Parties

8. At the October 3, 2005 hearing, both Parties presented arguments regarding the scope of privileges asserted in response to the document requests of the other party. The issues raised will be addressed by a separate future decision of the Tribunal.
9. In addition to their arguments described in paragraph 8, both Parties informed the Tribunal that certain aspects of the arbitration would require greater time than previously expected and that this made the current schedule difficult. Principally, the Parties stated that the great quantity of documents produced by both Parties and the process of reviewing these documents and objecting to production or withholding was requiring significantly more time than expected.
10. Consequently, both Parties acknowledged that the extension of certain deadlines in the schedule was appropriate, though Claimant wished to avoid any significant delay in the date of the final arbitral hearing, if at all possible.

III. Requests of Non-Disputing Parties

11. Certain non-disputing parties that wished to file non-party submissions with the Tribunal requested the Tribunal to reconsider its earlier decision that such submissions be filed prior to the filing of the Parties' memorials. The non-disputing parties asserted that it would be difficult to submit meaningful submissions without first examining the Parties' memorial and counter-memorial.
12. The Tribunal requested the views of the Parties on this request as a part of the October 3 Hearing. The Parties acknowledged the concerns of the non-disputing parties and agreed that non-party submissions could be filed contemporaneously with any Article 1128 filings, currently scheduled to be filed approximately a month following the submission of Respondent's Counter-memorial.

IV. Decision

13. Taking into account the views of the Parties and the Tribunal's desire to provide both Parties with ample time to develop and present their positions, as well as to provide non-disputing parties adequate opportunity to file meaningful and useful submissions, the schedule of proceedings is amended as follows:

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|-----------------------|---|
| February 16, 2006: | Submission of Claimant's Memorial |
| June 22, 2006: | Submission of Respondent's Counter-Memorial |
| July 20, 2006: | Submission of any Art. 1128 Submissions and Non-Disputing Party Submissions |
| August 31, 2006: | Submission of Claimant's Reply |
| October 12, 2006: | Submission of Respondent's Rejoinder |
| November 1, 2006: | Submission of Witness Lists |
| November 2, 2006: | Pre-Hearing Procedural Hearing |
| December 4-8, 2006 | Arbitral Hearing |
| December 11-15, 2006: | Possible Continuation of Arbitral Hearing |

14. If either Party has any objections to or concerns about the schedule as described above, please address those concerns to the Tribunal for consideration.

Michael K. Young

President of the Tribunal on behalf of the Tribunal

David D. Caron, Tribunal Member
Donald L. Morgan, Tribunal Member