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28th May 2004

Dear Colleagues,

Re. NAFTA Arbitration
Methanex Corporation v. United States of America

Having considered the Disputing Parties' respective written and oral submissions up to the end of the procedural meeting held by telephone conference-call on 24th May 2004, the Tribunal makes the following procedural order:

- (i) *Hearing times:* The main hearing next month hearing shall commence on Monday, 7th June 2004 at 9.30 am at the World Bank. For Days 1-3, the hearing times shall be 0930-1230 (morning session) and 1430-1730 (afternoon session), *with* a short break at a convenient time towards the middle of each session. These hearing times will be reviewed on Day 3 for Days 4-8, dependent on the progress being maintained at the main hearing;
- (ii) *List of Written Submissions for the Main Hearing:* The Disputing Parties will seek to agree and, no later than 2nd June 2004, shall submit a list of written submissions relied on by each Disputing Party for the main hearing, with particular regard to those written submissions made prior to service of Methanex's Second Amended Statement of Claim. Such a list is required to assist the Tribunal at and after the main hearing; it should be reasonably comprehensive; and if necessary, the list may of course be supplemented *at the* main hearing;
- (iii) *Other Pre-Main Hearing Materials:* The Disputing Parties will seek to agree and, no later than 2nd June 2004, shall submit to the Tribunal an index to the relevant bundles for the Main hearing, together with a consolidated list of exhibits and other legal materials (which could be taken from the existing table of contents from each bundle of exhibits and legal materials);

- (iv) *Draft Time-Table:* The Disputing Parties will seek to agree and, no later than 2nd June 2004, shall submit to the Tribunal a draft hearing timetable setting out (inter alia) the anticipated dates, times and order in which it is currently intended that the designated witnesses of the USA will be called at the Main Hearing. This draft timetable is intended only for the fair and efficient planning of the main hearing, including the personal convenience of witnesses; and it is understandably subject to change, depending upon the main hearing's actual circumstances;
- (v) *Opening Oral Statements:* In accordance with the wishes expressed by the Disputing Parties, Methanex shall make its opening statement on Monday, 7th June 2004 (taking not more than one day); and the USA shall make its opening statement on Tuesday and Wednesday, 8th and 9th June 2004 (taking not more than two days). If Methanex should finish its statement before the end of Day 1, the main hearing shall break until the beginning of Day 2 when the USA shall make a clean start with its statement; and likewise if the USA should finish its statement before the end of Day 3, the first witness shall nevertheless not begin his or her testimony before the beginning of Day 4;
- (vi) *Equality of Time:* Broadly, the Tribunal intends to operate the time available to the Disputing Parties on the basis of equality, subject to the overriding requirement of fairness and recognising that Methanex will require more time than the USA in cross-examining the designated oral witnesses;
- (vii) *Oral Witnesses:* The designated witnesses shall be examined as follows: (a) brief examination-in-chief (direct examination) by the USA, (b) cross-examination by Methanex, and (c) re-examination (re-direct) by the USA. Whilst the USA may examine its witnesses in-chief (direct examination), it is nonetheless understood that the existing written witness statement should stand as evidence-in-chief (direct evidence) and that such examination-In-chief should therefore not last more than ten minutes without the prior permission of the Tribunal. It is also understood that the scope of cross-examination shall be confined to the scope of the witness's written testimony and any additional evidence-in-chief. Likewise, it is also understood that the scope of any re-examination (re-direct evidence) shall be confined to the scope of the cross-examination. Any departure from these understandings will require the prior permission of the Tribunal, which in the circumstances will not lightly be granted. Factual and Expert Witnesses will not be allowed in the hearing room whilst another witness is being examined (unless the witness in question has already completed his or her testimony);
- (viii) *Closing Oral Statements and Post-Hearing Written Submissions:* Each Disputing Party shall make an oral closing statement once the examination of the witnesses has been concluded, with Methanex to go first, followed by the USA. As requested by the Disputing Parties, the Tribunal will re-visit at the main hearing the question whether post bearing written submissions will be necessary. Likewise, the Tribunal will address, in consultation with the Disputing Parties, at what stage any Ditcher oral or written submissions from Canada and Mexico would be received by the Tribunal (if any);

- (ix) *Core bundle and "Judges' Folders":* The Disputing Parties will consider whether the preparation of a core bundle and the use of judges' folders would be of assistance to the Tribunal at the main hearing. The Tribunal is content for the time being to leave the decision to the Disputing Parties;
- (x) *USA's Motion to Exclude Certain of Methanex's Evidence:* Methanex shall serve no later than 31st May 2004 a written response to the USA's Motion of 18th May 2004. It is understood that Methanex may likewise seek to exclude certain of the USA's evidence; and if so, that application shall be made in writing also not later than 31st May 2004. Subject to further order next week, both Disputing Parties should be ready to develop their respective submissions on this matter in their opening statements at the main hearing;
- (xi) *Methanex's Request for Disclosure of the NAFTA Negotiating History:* The USA shall serve no later than 3rd June 2004 a written response to Methanex's request made by letter of 10th May 2004. Subject to further order next week, both Disputing Parties should be ready to develop their respective submissions on this matter also in their opening statements at the main hearing;
- (xii) *Other Applications:* At the main hearing, the Disputing Parties may develop their respective submissions in respect of Methanex's Request for a reconsideration of Chapters J and K of the First Partial Award and Methanex's application in respect of 28 USCG § 1782. (The Disputing Parties have confirmed that there are no other procedural applications currently outstanding or about to be made to the Tribunal); and
- (xiii) *Other Arrangements:* The Disputing Parties shall make or ensure all necessary arrangements for the "live" and overnight transcript and the hearing of certain testimony by telephone and video-link.

Yours Sincerely,

V. V. Veeder

cc. Mr William Rowley QC: by fax: 00 1 416 865 7048; Professor Michael Reisman: by fax :
00 1 203 432 7247.

cc. Ms Margrete Stevens, ICSID: by fax: 00 1 202 522 2615.