



CORONA MATERIALS, LLC

**301 East Pine Street
Suite 1400
Orlando, FL 32801
ATTN: Randolph H. Fields
(407) 843-8880**

March 15, 2012

VIA COURIER

Yahaira Sosa Machado, Esq.
Director,
Dirección de Comercio Exterior y Administració
de Tratados Comerciales Internacionales (DICOEX)
Ministerio de Estado de Industria y Comercio
Av. 27 de febrero N.º209, Ensanche Naco
Santo Domingo, Dominican Republic

**Re: Notice of Violations of Chapter 10 of the Central America –
Dominican Republic-United States Free Trade Agreement (“DR-CAFTA”)**

Dear Ms. Sosa:

As you know, on March 1, 2007, DR-CAFTA went into effect for the Dominican Republic (the “Republic”). This letter provides official notice by Corona Materials, LLC on behalf of itself and its subsidiary, Walvis Investments, S.A. (collectively “CM” or “Corona”) of the Republic’s violations of Chapter 10 of the DR-CAFTA and constitutes CM’s Notice of Intent pursuant to Article 10.16(2) of DR-CAFTA.

In accordance with Article 10.16(2) of DR-CAFTA, CM’s official name, address and place of incorporation are:

Corona Materials, LLC.
Attn: Randolph H. Fields, Esq.,
Representative
301 East Pine Street, Suite 1400
Orlando Florida 32801
Telephone: 407-843-8880

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 2

Place of Legal Organization: Florida, United States of America

Since the Republic implemented **DR-CAFTA**, the **Republic has engaged in a course of action that violates the treaty and as a result CM has sustained substantial damages**. Some, but not necessarily all of these actions were briefly described in a letter dated February 16, 2011 to (among others) Ing. Ernesto Reyna Alcántara, Vice Minister of Gestion Ambiental, Ministerio de Estado de Medio Ambiente y Recursos Naturales, as well as face-to-face meetings with representatives of the Republic.

The facts underlying CM's DR-CAFTA claim are as follows:

1. **CORONA MATERIALS:** In accordance with Article 10.16(2) of DR-CAFTA, CM's official name, address and place of incorporation are:

Corona Materials, LLC.
Attn: Randolph H. Fields, Esq.,
Representative
301 East Pine Street, Suite 1400
Orlando Florida 32801
Telephone: 407-843-8880
Place of Incorporation: Florida, United States of America
Date of Legal Organization: November 7, 2005

2. **WALVIS INVESTMENTS:** CM owns 99% of its Dominican Subsidiary Walvis Investments, S.A. (Walvis) which it acquired in April 2006. The remaining 1% is owned by John E Elliott. The official address is:

Walvis Investments, S.A.
Attn: John E. Elliott
President.
Ave Duarte #22
Sanchez
Samana Province
Dominican Republic
Telephone: 407-701-0077
Place of Incorporation: Dominican Republic

3. **THE CORONA MANAGING DIRECTORS:** Randolph H. Fields is a shareholder and senior counsel in the law firm of Gray/Robinson, P.A. Mr. Fields has been voted top attorney in Central Florida and Most Influential Businessman. Mr. Fields' specialty is securities as it applies to banking, construction, hospitality, tourist attractions and

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 3

automotive sectors. He is a principal in new car franchises. He has assisted in raising billions of dollars in the capital markets. He has served as Chairman of the Orlando Metropolitan Planning Board, Chairman of the State of Florida Black Business Investment Board, Chairman of the Orlando Opera Board and Chairman of Rollins College's Hamilton Holt Business School. John E. Elliott is a major shareholder and former COO of Gencor Industries of Orlando a publically traded company and leader in the manufacture of hot asphalt plants and mining machinery.

4. **CORONA'S OBJECTIVE:** CM's objective is to distribute construction aggregate materials throughout southeast USA. CM had negotiated terms of wholesale supply contracts with major companies. In addition principal John Elliott planned to offer regular delivery of aggregate materials to over 200 asphalt plants owned by individual Gencor clients under preferential terms. The annual demand was projected at 700,000 metric tons. To meet this demand CM planned to export to the U.S. materials from the Caribbean Basin. Inquiries were made with several countries including the Dominican Republic. CM's operational and logistical requirements were based largely on the ultra modern "Polaris" mine in Vancouver Canada which is situated in a highly sensitive environmental location. There are four critical requirements for the export operation: 1. High quality homogeneous material, 2. Deposit reserves sufficient for fifty years of operation, 3. Deep water (14 meters) seaport to accommodate 70,000 ton panamax class ships situated adjacent to mine, and 4. Protected harbor with calm waters. These requirements considerably reduced CM's choices. In 2005 and 2006 CM principals met with Ing. Octavio Lopez, Dominican Director of Mining who was most responsive and helpful. After researching the options around the Dominican coast it was determined the only viable location that met all four requirements was the Joama group of concessions, close to Sanchez.

5. **REPRESENTATIONS & PROMISES DESIGNED TO ATTRACT FOREIGN INVESTMENT IN DOMINICAN REPUBLIC:** In 2006 CM met with Ing. Octavio Lopez, Director of the Dominican Mining Office at their offices in Orlando. He suggested that CM locate our proposed construction aggregate export business in the Dominican Republic. He presented three exploration concessions in the Sanchez area that were available for sale. The CM principals liked the Director's proposal and his confident representations that the investment would be secure. Sometime later principal Randolph Fields lunched at the prestigious Orlando University Club with special invitee Lic. Eddy Martinez, then Secretary of State for OPI-RD or CEI-RD who was ardently promoting and campaigning to the Central Florida business leaders the merits of investing in the Dominican Republic. Later in Santo Domingo the CM principals met with Francisco Javier Garcia, then Secretary of Industry and Commerce, on two occasions with Ing. Ernesto Reyna, Sub-Secretary of Environmental Management, and with Omar Ramirez, then Secretary of the Environment. All these senior representatives of the Dominican Republic expressed encouragement and vowed support for the

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 4

proposed Joama project. **This unified support satisfied the CM principals that an investment would be reasonably secure from political and other risks especially those associated with the entitlement and permitting process.**

6. **PURCHASE OF CONCESSIONS:** The Joama, Joban and Perla Exploration Concession Applications were purchased for considerable consideration on 12 April 2006.
7. **DUE DILLIGENCE:** In 2006 CM conducted its due diligence with respect to the proposed aggregate materials export venture near Sanchez in the Dominican Republic. Various sites were examined and land surveyors were contracted for a period of three months to provide boundary surveys of over 100 contiguous parcels at the western part of the Joama Concession. CM representatives met with all the land owners and determined all would gladly either sell or enter into royalty agreements. The following feasibility studies were conducted at considerable expense by leading Dominican consultants and all determined the project was viable: Legal and Political - Dr. Manuel Tapia; Environmental - Mario Mendez of EMPACA; Economic – Alberto Holguin of Rocas y Minerals; Private Sea Port – Seabulk of Vancouver Canada, Florida Aggregate Study – Lampl Herbert of Tallahassee Florida.
8. **JOAMA EXPLOTATION CONCESSION:** In May of 2007 CM hired Alberto Holguin of Rocas and Minerales to prepare and submit appropriate documentation to Dominican Mining Office. The concession was approved by the Director of Mining, the Secretary of Industry and Commerce and the Dr. Lionel Fernandez Reyna, President of the Republic. The date of the final Resolution#XII-09 is 1 June 2009. The **delay** of two years in granting the Resolution was because Francisco Javier Garcia resigned as Secretary of Industry and Commerce to become the Presidential Campaign Manager. The new Secretary was Milanio Paredes to the best of CM's knowledge did not execute any new mining concessions and the application lay on his desk for eighteen months. Within two weeks of Munchi Fadul being appointed Secretary he signed the Resolution granting the Joama Exploitation Concession.
9. **DESCRIPTION OF THE AREA:** The area of the mine is located in a desolate rocky mountainous area unsuitable for habitation, agriculture, tourism, or any other use other than mining. It has complex topography and property boundaries. There are no roads into the area and the nearest houses are more than one kilometer distant. The mine was carefully designed to be completely invisible from outside the area. There would be no visual impact. The aggregate material was to be transported to the port via covered conveyor which also would run in tunnels so trucks are not required. The port is a simple design utilizing piers with a low environmental footprint.

VIA COURIER

Yahaira Sosa Machado, Esq.

March 15, 2012

Page 5

10. **ACQUISITION OF SURFACE RIGHTS:** In 2008 and 2009 CM at considerable cost entered into 45 purchase options or royalty or easement contracts totaling more than 863,000 square meters. The professional appraisals returned a low value for the remote and desolate parcels and CM offered a fixed price per terea approximately three times the appraisals which greatly pleased the owners.
11. **COMMUNITY SUPPORT:** The project which would offer much-needed employment opportunities gained overwhelming community support. Local mayors, preachers, pastors, school directors, neighborhood associations, universally supported the project. Political support was give by the Provincial Governor, Senator, Congressman, Sindicos, etc. The only opposition to the project was minor and came from PRD opposition underwritten by competitive interests.
12. **APPLICATION FOR ENVIRONMENTAL LICENSE:** CM applied for an environmental license with the Secretary of the Environment & Natural Resources on 18 September 2007. The Terms of Reference for the Mine, Conveyor and Private port was issued on 6 May 2008 (when Terms of References are issued without identifying any major issues it is assumed a final approval will likely follow). On 9 October 2008 CM requested the Terms of References be split into two separating the mine from the port. **The principal reason being that it appeared that a new highly discriminatory government regulation was being contemplated which would not allow exports of aggregate.** On 18 November 2008 the discriminatory dance began in earnest when the Secretary of the Environment signed Resolution #17-2008 cancelling the administrative procedure to obtain permits to export construction aggregates. However on 25 May 2009 the Secretary signed Resolution #21-2009 reinstating the administrative procedure to export aggregates but added **a new punitive and discriminatory tax** (on exports only) of US\$2.00 per cubic meter. Oh and by the way the only party that would be adversely affected was CM, the foreign company panning exports. On 24 June 2009 new Terms of Reference were issued but the horsing around continued and CM was only issued Terms for the mine (not the port) and since that time CM has never received the separate Terms of Reference for the port and transport conveyor. These new Terms of Reference **limited CM to local sales only** despite the fact new Resolution #21-2009 had gone into force the previous month. It is noteworthy that the both Lena Beriguette, Director of the Evaluation Committee and Ing. Ernesto Reyna never acknowledged the existence of this new repealing Resolution (21-2009) and it **never appeared in the official website** with all the other resolutions. The application continued to be **processed very slowly** despite the fact that we promptly responded to all the Departments' requests. On 14 May 2010 the Department requested further information for the final review - most of this **information we had provided twice before** and was included in the two previous applications. On 18 August 2010 (**almost 2 years after our filing**) we received a letter from **Environmental that they did not consider the project was environmentally viable.** **The six reasons given did not provide substantive reason to support their**

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 6

claim. For instance they stated the project needed to be more than 30 meters from all water bodies and water courses. The closest water is 700 meters away. CM representatives met with Ing. Ernesto Reyna who told Lena the Supervisor of the Evaluation Committee to try and assist CM. When CM met in her office she showed little interest or motivation to assist CM. Furthermore she demonstrated to CM that she had little knowledge of the project and for the fourth time requested copies of letters of no objection from the property owners to conduct exploration activities on their properties. These letters dated back to the summer of 2007, the exploration had long been completed and the letters had been superseded by option and royalty contracts. On 5 October 2010 CM sent a letter requesting a formal reconsideration which was never answered. The Provincial Governor, Sindicos and Development Associations all sent letters of support to Ing. Reyna and requested a meeting to request the license be granted. The meeting was held in mid January 2011 and was attended by Ing. Ernesto Reyna and the various Department heads. Reyna stated the project would be reconsidered and told CM they would start work immediately following the adjournment of the meeting. As the Environmental Ministry telephone system and website appears to have been and possibly still is inoperable ... in mid February CM representatives visited the new "Unico Ventana" to inquire as to the status of the reconsideration ... after speaking to several officials including Antonia Reyna's assistant ... all stated they had not seen and none had worked on the Joama case file. On the 16 February, 2011 CM hand-delivered a letter to Reyna and the Minister requesting the license, a new Terms of Reference for the port, payment for losses and damages to date or CM would seek a resolution in Arbitration under the DR-CAFTA provisions. **To date they have never responded.**

13. **PUBLIC STATEMENTS ANNOUNCING APPROVALS IN 60-90 DAYS:** The Environmental Ministry has repeatedly stated in the national press and at presentations that the time to approve Environmental licenses is 30-60 days and occasionally requires an additional 30 days or a maximum of 90 days. Forty-six months have passed since 18 September 2007 when CM first applied for a License. Furthermore the Republic has failed to respond to virtually all communications sent requesting status of the project including the request on 5 October 2010 to reconsider its decision. The **Republic has been unresponsive and shown gross discourtesy** cancelling numerous appointments at the last minute after travelling from Florida or Sanchez to its offices. Without doubt the Republic has discriminated against CM as a foreign investor and the Republic's actions clearly constitute violations of Article 10.5(1) of DR-CAFTA treaty.
14. **RESOLUTION #18-2008:** On 18 November, 2008 the Republic through its Environmental Ministry signed into effect this resolution **cancelling the administrative procedure to procure permit to export**, among other items, construction aggregates effectively crippling CM business and investment. Furthermore this was done while the

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 7

Terms of Reference for the Mine and Port issued by the same Ministry were still in effect.

15. **SPLITTING THE ORIGINAL TERMS OF REFERENCE:** In anticipation of Resolution #18-2008, CM on 9 October requested the splitting of the Terms of Reference into two separate documents. One for the mine and one for the port and conveyor. Despite the fact that CM would no longer be permitted to export aggregates it took the Republic until 24 June 2009 or **nine months to issue** the new Terms of Reference for the mine only.
16. **RESOLUTION 21-2009:** On 25 May 2010 the Republic through its Environmental Ministry signed into effect this resolution which reversed the previous Resolution #18-2008 which now re-established the permitting procedure to export aggregates. However the Republic **never granted the separate Terms of Reference for the port and conveyor** despite many requests to do so. This resolution was never published in the official website and was not even acknowledged by Ing. Ernesto Reyna who continued to process the license on the condition CM would not export. Although CM's plans to export were again legally permissible, the Republic by **unfairly and arbitrarily denying to grant the Terms of reference effectively crippled CM's export plans and investment**. No other domestic mining company was restricted to export and without doubt the Republic discriminated against CM as a foreign investor and the Republic's actions clearly constitute violations of Article 10.5(1) of DR-CAFTA treaty.
17. **RESOLUTION 21-2009 EXPORT TAX LEVY:** This resolution also stipulated that all aggregate exports would be subject to **a new discriminatory and punitive US\$2.00 per cubic meter export tax**. This tax had not been ratified by the Dominican congress or senate and may be considered unconstitutional. Aggregate exports are a high volume low margin enterprise and the excessive amount of the discriminatory tax seriously impacts the projected profit per ton as evidenced by KPMG accounting projections. Also the tax on domestic sales is only US\$0.30 cubic meter thus discriminating against exports businesses owned by foreign investors clearly constitute violations of Article 10.5(1) of DR-CAFTA treaty.
18. **STATEMENTS BY THE MINISTER:** It is widely known that the Jaime David, the former Environmental Minister was not supportive of the mining sector. To the best of CM's knowledge **no other foreign major mining operations have been licensed** during his tenure. Furthermore he may have stated that he will not approve licenses for foreign mining operations and according to third parties it has been reported that he publically stated that "he will not permit the export [of] Dominican soil". Without doubt the

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 8

Republic discriminated against CM as a foreign investor and the Republic's actions clearly constitute violations of Article 10.5(1) of DR-CAFTA treaty.

19. **LETTER DENYING LICENCE:** On 18 August 2010 the Republic through its Environmental Ministry issued a letter / notice reference # 003771 and DEA 3867-10 signed by Ing. Ernesto Reyna Alcantara, Vice Minister of Gestion Ambiental which set forth six reasons why the Joama project was not environmentally viable referencing Articles: 8, 118, 120, 129 of the Environmental law # 64-00. None of these six reasons provided a substantive, technical, logical or project specific reason to justify denying the license. They were merely parroted quotations from the environmental law #64-00 **without reference to specific violations or omission.** For example one stated that projects needed to be more than 30 meters from water bodies or rivers. It did not specify that the project was less than the 30 meters minimum when in fact the nearest part of the project is 700 or more away with no possibility of contamination. As other mines in Sanchez are immediately next to a river and blatantly contaminated the water, the Republic discriminated against CM as a foreign investor and **ignored violations by domestic owned mines** the Republic's actions clearly constitute violations of Article 10.5(1) of DR-CAFTA treaty.

20. **PRIOR KNOWLEDGE OF NON-VIABILITY BY MINISTRY:** On 18 August 2010 the Republic through its Environmental Ministry issued a letter / notice reference # 003771 and DEA 3867-10 signed by Ing. Ernesto Reyna Alcantara, Vice Minister of Gestion Ambiental which set forth six reasons why the Joama project was not environmentally viable referencing Articles: 8, 118, 120, 129 of the Environmental law # 64-00. None of these six reasons provided a substantive, technical, logical or project specific reason to justify denying the license. All of the six reasons for denying the license should have been readily identified by the Ministry during their review of the original application for the Terms of Reference for the Port and Mine and the subsequent second application for the Terms of Reference for the Mine only. As a general description of the planned project and its specific location was provided on both those occasions and because the six reasons for denying the license are merely quotations from the environmental law and not specific technical reasons directly related to or referred to in the Environmental License Application, the Ministry should never have issued the two Terms of Reference which are in themselves generally considered by applicants and officials alike as a pre-approval or minimally an acknowledgement by the Ministry that the project has merit and does not present any overshadowing circumstances or conditions that would preclude the ultimate granting of a license such as the six reasons given. For this reason the Dominican State has deliberately misled CM by not informing CM during the time the Terms of Reference were applied for and being reviewed that the Joama project was not viable for the general reasons the project did not comply with Articles: 8, 118, 120, 129 of the Environmental law # 64-00. Instead the Ministry

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 9

granted the Terms of Reference causing CM to believe the project was potentially viable, licensable and generally acceptable to the Ministry and **wrongly inducing them to invest their assets and time** in a project that in reality did not meet their illusive standards from its inception. Without any doubt the Republic through its Environmental Ministry grossly discriminated against CM as a foreign investor and the Republic's actions clearly constitute violations of Article 10.5(1) of DR-CAFTA treaty.

21. **REPRESENTATIONS & PROMISES:** Ing. Octavio Lopez - The Director of Mines, Lic. Eddy Martinez - Minister of CEI-RD, Ing. Ernesto Reyna -Vice-Minister of Gestion Ambiental, Omar Ramirez – Ex-Secretary of the Environment, Francisco Javier Garcia – Ex-Secretary of Industry and Commerce all to varying degrees represented that the CM investment would be welcomed in the Republic collectively causing CM to be satisfied that its investment in the Republic would be free from political or administrative adversity. CM is now of the opinion that the Republic has misled and tricked them into making an investment that they knew or should have known was doomed from the start. **CM could not have reasonably known or anticipated that the Republic would stall the environmental permitting process for forty six (46) months.** The two Dominican environmental consultants hired by CM at great expense were approved and recommended by the Environmental Ministry.

22. **COASTAL FRINGE DECREE:** In 2009 CM engaged the Dominican law firm of Rios and Associates to apply for Executive Decree to use a small part of the 60 meter costal fringe being sovereign land. Rios advised CM in 2010 that **this approval had been paralyzed for eighteen months.**

23. **CONDUCT AT ENVIRONMENTAL MINISTRY:** The conduct of the staff at Gestion Ambiental towards CM partners has been in serious question. In particular Ing. Lena Beriguette, Director of the Evaluation Department generally presented herself as **disinterested, unmotivated and extraordinarily slow** in processing our application. If CM did manage to make an appointment to meet with her it was always an effort for her to respond to our serious issues. Her requests and responses were repetitious and clearly indicated she was unwilling or unable to fully comprehend the project and was generally uninterested in delving into the details. An example is: twice in a period of six months she requested copies of a set of obsolete documents which were previously provided in the original application for both the Terms of Reference and the Environmental Study. After travelling from Florida or Samana for an appointment she would often cancel without notice. Many of the staff members were generally rushing around, too busy to be bothered. Often one had to resort to grabbing them by the arm in the hallways. The standard response if you had a problem at the Environmental Management office was “write a letter” to the Sub-Secretary. **CM wrote over twelve letters to the Sub-Secretary and never received a reply.**

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 10

Summary of Key Facts and Dates

April 12, 2006	CM invested in DR mineral concessions
2006-2007	CM conducted studies, hired engineers and consultants and began raising financing, acquiring land and seeking customers
September 18, 2007	CM files Application for Environmental License
2008-2009	CM acquires surface rights for the project
May 8, 2008	Favorable terms of reference (in essence, initial approval regarding environmental clearance) issued
September 16, 2008	CM submits Environmental Application
November 18, 2008	Secretary of Environment mysteriously orders cessation of aggregate exports
May 25, 2009	Secretary of Environment imposes punitive discriminatory \$2.00 per ton on exports of CM products
June 1, 2009	Concession approved by DR Director of Mining and President of the Republic
Never	Secretary of Environment never even issued terms of reference for the port – total silence
May 14, 2010	Environmental Department (after one and one-half years from submission of application) requests additional information it already had received – the slow death warrant
August 18, 2010	Environmental approval wrongfully denied with no specific reason given – after 2 years
October 5, 2010	CM asks for reconsideration – no response ever given by DR officials
February 16, 2011	CM demand letter is delivered to government authorities – never a response from DR officials

VIA COURIER

Yahaira Sosa Machado, Esq.
March 15, 2012
Page 12

CM reserves fully its rights to amend or supplement its claims, and this letter is served without prejudice to those rights.

Sincerely,



Randolph H. Fields, Esq.,
CM Representative

c.c. His Excellency Dr. Lionel Fernandez Reyna
President of the Dominican Republic
Palacio Nacional
Santo Domingo
Dominican Republic

Ing. Ernesto Reyna Alcántara,
Minister
Ministerio de Estado de Medio Ambiente y Recursos Naturales
Ave. Cayetano Germosen (Corner of Ave. Luperon)
El Pedregal, Santo Domingo, DN, Dominican Republic

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