

**IN THE MATTER OF AN ARBITRATION UNDER CHAPTER ELEVEN OF THE
NORTH AMERICAN FREE TRADE AGREEMENT AND THE UNCITRAL
ARBITRATION RULES OF 1976**

BETWEEN:

**WILLIAM RALPH CLAYTON, WILLIAM RICHARD CLAYTON, DOUGLAS
CLAYTON AND BILCON OF DELAWARE INC.**

Claimants/Investors

and

GOVERNMENT OF CANADA

Respondent

INVESTORS' REPLY COSTS SUBMISSIONS

March 2, 2026

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I. OVERVIEW

1. At Canada's request, and over the Investors' objections, this proceeding was bifurcated. Both phases of the arbitration were detailed and complex, with extensive document production, evidence, written submissions and testimony. In the end, the Investors prevailed. They won on all but one of Canada's five jurisdictional objections. They were wholly successful on liability. They succeeded in establishing their entitlement to damages. The Investors were compelled to bring this arbitration to wipe out the consequences of Canada's wrongdoing. The law is clear. The Investors are entitled to their costs.

2. Yet, Canada seeks to be absolved of all responsibility for its wrongful conduct and the increased costs consequences of bifurcation. It first asks the Tribunal to award the Investors no costs for the jurisdiction and liability phase of the arbitration, despite the Investors' success. It then asks the Tribunal to award Canada its costs from the damages phase, despite the fact that the Investors defeated most of Canada's arguments and obtained an award of damages.

3. Canada has not cited a single authority for the striking notion that the state should be awarded costs for losing an arbitration and having to pay damages to the wronged investor. There are no authorities, and for good reason. Accepting the proposition would turn the "costs follow the event" principle on its head. It would reward Canada for its unlawful conduct and vigorous resistance to the Investors' claims in an arbitration where Canada lost on jurisdiction, liability and damages. It would penalize the Investors for having brought a meritorious claim.

4. Canada's argument that the Investors advanced an "inappropriate" lost profits claim completely misses the mark. To fully value their lost opportunity, the Investors were required to lead evidence proving the value of the project. There was no other way to make their case.

5. In light of this complex and lengthy arbitration, the Investors' costs are reasonable and consistent with the costs incurred by claimants in similar arbitrations.¹ The hours worked are also reasonable. While Canada's claimed costs may be lower because of the nature of the state's billing practices,² both parties worked approximately 50,000 hours on this arbitration.

¹ ¶ 35 of the Investors' Costs Submissions. Also *Yukos Capital Limited v. The Russian Federation*, PCA Case 2013-31, Award, 23 July 2021, where the claimants were awarded \$20.5m (¶ 898) and *ConocoPhillips Petrozuata B.V. et al. v. Bolivarian Republic of Venezuela*, ICSID Case No. ARB/07/30, Award, 8 March 2019, where the claimants were awarded \$20.4m (¶ 1010).

² *Gemplus Industrial S.A. de C.V. v. The United Mexican States* (ICSID Case No. ARB(AF)/04/3) Award, 16 June 2010, ¶ 17-25.

II. JURISDICTION AND LIABILITY PHASE OF THE ARBITRATION

6. Both parties agree that “costs follow the event.”³ Indeed, as the tribunal in *Euram Bank v. Slovakia*, one of Canada’s authorities, explained, “this arises from the basic principle that the successful party ‘has in effect been forced to go through the process in order to achieve success, and should not be penalized by having to pay for the process itself.’”⁴

7. There can be no question that the Investors were successful in the jurisdiction and liability phase of the arbitration. They won on all but one of Canada’s five jurisdictional objections and were wholly successful on liability, establishing that Canada breached both Articles 1102 and 1105. Indeed, the Tribunal found that the JRP process was “unprecedented,” “highly problematic” and “unwinnable from the outset.”⁵

8. There can be no credible debate about the result and costs implications of this phase of the arbitration. Canada’s contention that the Investors should be awarded no costs⁶ is supported by misleading arguments mischaracterizing both the findings of the Tribunal and the law defining “success” for the purpose of assessing costs.

9. The Investors advanced three causes of action: that Canada breached Articles 1102, 1103 and 1105 of the NAFTA. In the result, they were wholly successful.⁷ Canada asks this Tribunal to reframe success, to assess success not by reference to the causes of action but by reference to the underlying “measures.” This misleading argument is untenable for two reasons. First, it is factually wrong. Canada wrongly suggests that the underlying measures each raised independent issues, without overlap. Second, it is legally wrong. Canada has not cited a single case that assesses “success” in an arbitration by reference to underlying “measures” and not to “causes of action.” It cannot, because the approach makes no sense. Each of these issues is addressed below.

10. The impugned measures were not distinct issues but all related to two general issues:

- a) 18 of the measures related to the JRP process and the findings by the JRP. They thus impugn the same conduct. They simply articulate different ways that Canada’s

³ Canada’s Submission on Costs, ¶¶ 9-10.

⁴ RA-168, ¶ 41. Also *Tethyan Copper Company Pty Limited v. Islamic Republic of Pakistan*, ICSID Case No. ARB/12/1, Award, 12 July 2019 (“*Tethyan Copper*”), ¶ 1852 (the claimant “had to initiate the arbitration in order to receive the amount of compensation to which it is entitled as a result of the Respondent’s Treaty breaches”).

⁵ Jurisdiction & Liability Award, ¶¶ 450, 453, 534.

⁶ Canada’s Submission on Costs, ¶¶ 5, 20.

⁷ Jurisdiction & Liability Award, ¶¶ 451, 453, 729-730, 739. The Tribunal chose not to decide Article 1103 given its findings on Articles 1102 and 1105.

conduct was wrongful. For example, one measure was the JRP's reliance on community core values in making its recommendations. Other measures included the JRP's rejection of the adaptive management approach or application of the precautionary principle. Canada has not identified how, if those other measures were removed, the case would have been meaningfully narrowed or different. It would not have been. The same causes of action for breaching Articles 1102 and 1105 would have been alleged, along with all of the relevant evidence related to the JRP process.

- b) 9 of the measures relate to steps taken by Nova Scotia and the Department of Fisheries prior to 2005 that the Tribunal held were time-barred. That is the only issue on which Canada was successful in this phase of the arbitration. Even then, the removal of these measures would not have narrowed the arbitration, as the Tribunal expressly recognized in its decision:

The Tribunal appreciates the thorough effort both sides in this dispute have made to investigate, document, present witnesses and argue regarding the events which the Tribunal has found to be time-barred. Some of these efforts provide necessary context to the considerations of the merits in respect of the rest of the case...events prior to the three-year bar, however, are by no means irrelevant. They can provide necessary background or context for determining whether breaches occurred during the time-eligible period.⁸

11. Canada's attempt to mischaracterize the Investors' obvious success in this arbitration by reference to the individual measures is also legally unsupported. Once again, Canada has not cited a single authority in support of its argument because no such authority exists. To the contrary, the authorities Canada cites make clear that success for costs purposes is measured with reference to success on causes of action or defences as a whole. For example, in *Eurobank v. Slovak*, the tribunal reviewed the parties' respective success on "the various claims, jurisdictional objections and procedural applications that materially impacted" costs. The tribunal then looked at the respondent's success on the jurisdictional objections raised (and not sub-arguments or issues within each one).⁹

⁸ Jurisdiction & Liability Award, ¶ 282.

⁹ Footnote 7 of Canada's Submission on Costs; RA-168, ¶¶ 42, 53-55. Also RA-170, *Onyx Gold v. Uzbekistan*, ¶¶ 1040-1043, where the tribunal described the costs follow the event principle as "taking into account the parties' relative success regarding their claims and defences."

12. In *Infrastructure Services v. Spain*, the tribunal reviewed the relative success “of the claims and defences” of each of the parties. In doing so, the tribunal considered that the claimant: (a) succeeded on three of four jurisdictional objections and thus “largely prevailed on jurisdiction”; and, (b) established a breach of the FET standard and resulting damages, although the tribunal “did not accept all elements” of the claims and “awarded a lesser amount of compensation than that claimed.”¹⁰ In the end, the tribunal awarded the claimant the majority of its costs. The decision illustrates that a tribunal will properly measure success by looking to the causes of actions and objections raised as a whole – and not to individual issues, elements, or “measures” – and will award costs to the overall successful party.

13. This is consistent with other NAFTA cases. In *Cargill v. Mexico*, the tribunal noted that the claimant established liability based on several articles of the NAFTA but did not succeed on its claims under Articles 1103 and 1110 (unlike the present case, there was mixed success on the causes of action raised). The tribunal was thus focused on success based on the causes of action raised.¹¹

14. Clearly, the Investors had no alternative but to bring this claim to “obtain justice.”¹² Canada’s NAFTA breaches would otherwise have gone without redress. The international law principles of full reparation and fairness both require that the Investors recover their costs. Canada’s arguments that it should not be responsible to pay costs consequences for the jurisdiction and liability phase must be rejected.

III. DAMAGES PHASE OF THE ARBITRATION

15. In the damages phase, Canada raised many arguments that were unsuccessful, including that: (a) the Tribunal should award no damages; (b) alternatively, the Investors did not mitigate their losses and should only be awarded \$1 million in mitigation costs; (c) in the further alternative, their costs should be limited to the reimbursement of the faulty JRP process; and (d) compensation is precluded by the prohibition against awarding “reflective loss” damages.¹³ The Tribunal rejected all of these arguments, finding that the Investors were entitled to damages reflecting the lost

¹⁰ *Antin Infrastructure Services Luxembourg S.a.r.l. and Antin Energia Termosolar B.V. v. The Kingdom of Spain*, ICSID Case No. ARB/13/31, Award, 15 June 2018, ¶¶ 745-747.

¹¹ *Cargill, Incorporated v. United Mexican States*, ICSID Case No. ARB(AF)/05/2, Award, 18 September 2009, ¶¶ 546-547.

¹² *PSEG Global Inc. and Konya Ilgin Elektrik Üretim ve Ticaret Limited Sirketi v. Republic of Turkey*, ICSID Case No. ARB/02/5, Award, 19 January 2007, ¶ 352.

¹³ Damages Award, ¶¶ 90-92, 214, 220-228, 396.

opportunity of having the environmental impact of the Project assessed in a fair and non-arbitrary manner.¹⁴

16. Contrary to Canada's contention that the Investors unsuccessfully pursued a claim for lost profits and therefore "lost" the damages phase, the Investors were awarded damages and the Tribunal considered the Investors' evidence in determining the appropriate quantum. Thus, the claim, analysis, and result are not as simplistic or as binary as Canada pretends.

17. Although the Investors were successful in defeating most of Canada's damages arguments and in proving their entitlement to damages, Canada claims that the Investors should pay Canada's legal representation costs in the damages phase of the arbitration. Canada has not cited a single precedent where the respondent state was awarded its costs where a claimant succeeded in establishing liability and entitlement to damages. That is because no such precedent exists. This novel idea would punish a claimant who brings a meritorious claim and would reward a state which breaches its international treaty obligations. Once again, Canada is urging the Tribunal to look through the wrong end of the telescope.

18. Canada's justification for this unprecedented idea is that the Investors were not successful in their claim for lost profits and that the damages awarded were less than what was claimed. Canada essentially says it was unreasonable for the Investors to have put forward a claim for lost profits as damages flowing from a lost opportunity to a legally compliant EA process.¹⁵ Canada's contention is wrong.

19. First, it is wrong to say that the Investors acted unreasonably in advancing a claim for lost profits. The Tribunal found that the NAFTA breach caused the Investors to lose an opportunity to a legally compliant EA process. The question facing the Tribunal was: what would have happened but for the breach? It was not only reasonable but necessary for the Investors to show that, but for the breach – had they experienced a legally compliant process – they would have obtained their permits and built the project. That approach has been successfully adopted in other cases. For example, in *Tethyan Copper v. Pakistan*, the tribunal applied the DCF method despite the fact that the claimant had not yet received all necessary permits and approvals.¹⁶

¹⁴ Damages Award, ¶¶ 280-303.

¹⁵ ¶¶ 25-27 of Canada's Submissions on Costs.

¹⁶ *Tethyan Copper*, ¶¶ 330-335, 366, 1207-1209. Also *Crystallex International Corporation v. Bolivian Republic of Venezuela*, ICSID Case No. ARB(AF)/11/2, Award, 4 April 2016 ("Crystallex") ¶¶ 877-879; *Gold Reserve Inc. v. Bolivian Republic of Venezuela*, ICSID Case No. ARB(AF)/09/01, Award, 22 September, 2014, ¶ 690.

20. Second, to fully value their “lost opportunity” the Investors needed to put forward comprehensive evidence of revenue, expenses, expected returns, and profits over the life of the project along with a valuation. That evidence was plainly and fundamentally necessary and relevant. **There is no fair and reasonable way to fully value the loss of an opportunity of an investment without cogent evidence of the value of the investment.** In other cases involving damages for a lost opportunity, even where damages have not been awarded based on the DCF method, tribunals have recognized that such losses are not limited to sunk costs, but can also take into account the expected return or profits of the lost opportunity in question.

21. For example, in *Southern Pacific v. Egypt*, the tribunal declined to award damages based on the DCF method but it did award damages to compensate “for the loss of the chance or opportunity of making a commercial success of the project.” The tribunal noted that this assessment, like the DCF method, “is intended to recover the **value** of the Claimants’ investment.” The tribunal thus looked not only at the out-of-pocket expenses, but also lost sales and revenues during the life of the project.¹⁷ Similarly, in *AIG Capital v. Kazakhstan*, the tribunal found that “the appropriate compensation for the loss of opportunity would be and should be the expected **return**” on the investment as set out in the claimants’ expert report.¹⁸

22. A claim for damages for the loss of an opportunity therefore still requires evidence of value. “[A] party claiming damages for lost opportunity must provide sufficient elements to enable the Tribunal to exercise [its] discretion in a way that has meaning and purpose.”¹⁹ Had the Investors not put forward evidence of the value of their investment to value the lost opportunity, the Tribunal might well have found – and Canada would surely have argued – that the Investors had not proven any damages at all. In *Eco Ora v. Colombia*, the tribunal found that the claimant had “elected to provide no evidence or arguments in relation to the value of” the lost opportunity to apply for an environmental license, and awarded no damages.²⁰

¹⁷ *Southern Pacific Properties (Middle East) Limited v. Arab Republic of Egypt*, ICSID Case No. ARB/84/3, Award, 20 May 1992 (“*Southern Pacific*”), ¶¶ 212-218. Also *Société Ouest Africaine des Bétons Industriels v. Senegal*, ICSID Case No. ARB/82/1, Award, 25 February 1988 (FR), ¶¶ 7.13-7.19; *Sapphire International Petroleum, Ltd. v. National Iranian Oil Company*, 35 ILR 136, Award, 15 March 1963, ¶ C. 15; *Marco Gavazzi and Stefano Gavazzi v. Romania*, ICSID Case No. ARB/12/25, Award, 18 April 2017, ¶¶ 222, 229.

¹⁸ *AIG Capital Partners, Inc. and C.JSC Tema Real Estate Company v. Republic of Kazakhstan*, ICSID Case No. ARB/01/6, Award, 7 October 2003 (“*AIG Capital*”), ¶ 12.3.2. Also *Gemplus Industrial S.A. de C.V. v. The United Mexican States* (ICSID Case No. ARB(AF)/04/3) Award, 16 June 2010, ¶¶ 13.72, 13.95, 13.100, where the tribunal rejected the DCF method but still assessed the lost opportunity to make future profits, noting that “reasonable opportunity...has a monetary value.”

¹⁹ *Caratube International Oil Company LLP et al. v. Republic of Kazakhstan*, ICSID Case No. ARB/13/13, Award, 27 September 2017, ¶ 1152.

²⁰ *Eco Ora Minerals Corp. v. Republic of Colombia*, ICSID Case No. ARB/16/41, Award, 15 July 2024 (“*Eco Ora*”), ¶¶ 303-304.

23. Third, Canada contends that where a claimant's loss is not measured in relation to lost profits, or the claimant obtains a lower damages award than the total claimed, the claimant is not entitled to its costs. This contention is blatantly wrong. As is set out at paragraph 22 of the Investors' Costs Submissions, numerous tribunals have awarded claimants a significant portion of their costs in those circumstances.²¹

24. Canada's position is not limited to suggesting that the Investors should not be entitled to their costs for the damages phase of the arbitration. Canada seeks the unprecedented relief that it be awarded costs in an arbitration where it was found liable for breaching its international obligations, resulting in compensable losses. The cases cited to support this position stand against it. For example, Canada cites cases where the tribunal held that each party should bear their own costs where, a claimant failed to prove its entitlement to damages at all.²² Moreover, in *Siag v. Egypt*, the tribunal did not accept the claimant's expert evidence containing its DCF analysis. It therefore removed that expert's damages fees but otherwise ordered Egypt to pay the claimant's legal fees and expenses (which totaled over 70% of such costs).²³

IV. THE INVESTORS' CONDUCT IN THE ARBITRATION WAS REASONABLE AND APPROPRIATE

25. Canada contends that it is entitled to costs because the Investors acted "unreasonabl[y]" in their conduct of the arbitration in two respects: by advancing an "inappropriate" lost profits claim and by "disregard[ing]" procedural rules.²⁴

26. This submission is entirely without merit. As referenced above, it was both reasonable and appropriate for the Investors to seek damages for lost profits. Canada's attempt to impugn selected examples of the Investors' alleged procedural conduct is distorted and disingenuous, especially in light of Canada's costly initiative to bifurcate the proceedings. Regardless, neither contention justifies abandoning the foundational principle that costs "follow the event" in favor of establishing a new precedent by awarding costs to an overall unsuccessful party.

²¹ In addition to the cases cited in that paragraph, see *Teco Guatemala Holdings LLC v. The Republic of Guatemala*, ICSID Case No. ARB/10/17, Award, 19 December 2013 ("*Teco*") (claimant awarded 75% of its costs after receiving significantly less quantum than claimed).

²² *Eco Ora*; *Chevron v. Ecuador* (cited at footnote 8 of Canada's Submission on Costs).

²³ *Siag v. Egypt*, ¶¶ 620-630 (cited at footnote 8 of Canada's Submission on Costs); also *Mason Capital v. Korea*, ¶ 1143 referred to at ¶ 22(c) of the Investors' Submissions on Costs.

²⁴ Canada's Submission on Costs, ¶¶ 30, 34.

A. The Investors' damages claim was reasonable and appropriate.

27. The Investors' lost profits claim was entirely appropriate. It was a natural and logical outcome of the Liability Award and completely aligned with international law. As is addressed at paragraph 19, above, the Tribunal held in its Liability Award that Canada breached its NAFTA obligations but did not answer the question of "what would have happened but for the breach?" In the Liability Award, the Tribunal did not decide one way or the other whether the project would have been approved if Canada had acted lawfully.

28. Given this, following the Liability Award the range of foreseeable "situations" that "would in all probability" have existed if the alleged wrongful act had not been committed continued to include the approval of the project. It was thus entirely appropriate for the Investors to present the case that, but for Canada's breaching conduct – that is, if Canada had acted lawfully – the project would have been approved and the quarry would have operated as the Investors planned.

29. Further, international law supported the Investors' presentation of the value of their loss with reference to lost profits. As noted above at paragraph 19, the DCF method has been successfully applied to measure damages in cases involving a wronged party's inability to realize an investment, including where the investment does not have an operational history.²⁵ And, where a claim for lost profits associated with an unrealized investment is unsuccessful, the jurisprudence does not support upending the costs follow the event or apportionment principles.²⁶

30. Indeed, it would have been at odds with international jurisprudence for the Investors not to have valued their loss in relation to lost profits since the Investors' essential claim from the outset was that, but for Canada's unlawful conduct, the project would have been approved. The Tribunal's finding that there was a "**realistic possibility**" of approval,²⁷ and Professor Schwartz's finding that the Investors had a "**high probability of obtaining a permit on economically viable terms had the environmental assessment been carried out in a NAFTA-compliant manner in the first place**"²⁸ cannot signify that it was inappropriate or "unreasonable" for the Investors to present comprehensive evidence in support of their claim for lost profits. And it surely cannot

²⁵ *Crystallex; Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. v. Argentine Republic*, ICSID Case No. ARB/97/3, Award, 20 August 2010.

²⁶ *Southern Pacific; Tecu; AIG Capital*.

²⁷ Damages Award, ¶ 168.

²⁸ Concurring Opinion of Professor Bryan P. Schwartz, ¶ 4.

mean that the Tribunal should abandon the fundamental costs follow the event and apportionment principles of international law in favour of awarding a costs windfall to the wrongdoer!

31. Second, Canada's failed scoping motion should not have caused the Investors to forego their lost profits claim. In the scoping motion, Canada expressly argued that the damages that the Investors "may recover...do not include the lost profits." The Tribunal did not accede to this argument and did not hold that the Liability Award precluded a lost profits claim. To the contrary, in rejecting Canada's motion, the Tribunal found that "the Investors' request to proceed with a single, undivided quantum phase is procedurally the soundest one". Further, the Tribunal did not indicate in its decision that it would depart from established costs principles if the Investors' pursued lost profits but recovered damages under another measure. Advancing a claim for lost profits in this case caused no significant extra costs to be incurred because the valuation of the project was reasonable to prove the full value of the lost opportunity to these investors.

32. Finally, as addressed in more detail at paragraphs 21 and 22, even where the DCF method has not been used as the basis for valuing loss, evidence about the lost investment opportunity and expected return is nonetheless relevant to valuing the loss of the "chance" of making a project a commercial success and therefore remains useful to a tribunal. For this reason alone, a winning party who recovers damages for a loss of opportunity cannot be penalized by paying costs to the wrongdoer.

B. The Investors' procedural conduct was appropriate.

33. While Canada alleges a "legion" of procedural misconduct by the Investors in the arbitration, it points to only three instances, each of which is distorted and petty. By failing to address its costly bifurcation initiative and failing to connect any of the alleged misconduct to an increase in its costs, Canada's allegations serve only to highlight the trivial and one-sided nature of its overall submission.

34. Canada refers to the Investors filing their Memorial "a day late" and delaying the delivery of Mr. Estrin's expert report. Canada omits to say, however, that it was informed that Mr. Estrin had a major adverse health event and that the delay in the delivery of his report was accordingly outside of the Investors' control.²⁹ Ordinarily, the effect of a witness' sudden illness in a

²⁹ Letter from Nash Johnston LLP to the Tribunal dated January 18, 2017.

proceeding would be reasonably and cooperatively addressed as a matter of professional courtesy between counsel, and not be weaponized in support of a frivolous argument of unreasonable conduct.

35. Canada refers to the Investors having filed two expert “Reply Rejoinder Reports” as indicating a “disregard” of the procedural rules. The Investors tendered the Reply Rejoinder Reports on the basis that Canada had itself disregarded the procedural rules by splitting its case. The matter was resolved by the Tribunal in the ordinary course and, viewed fairly, amounts to nothing more than an evidentiary skirmish in a vigorously contested proceeding with *de minimus* costs consequences.

36. Canada also impugns the Investors’ approach to confidentiality designations, ignoring the fact that the Tribunal upheld many of the Investors’ disputed confidentiality designations, including in its Procedural Order No. 26 (dated December 8, 2017).³⁰ The Tribunal also rejected Canada’s argument that information “publicly available on the internet” is not confidential, although Canada has tried to revive this argument in its costs submissions. Viewed fairly and on balance, the parties realized divided success in differences over confidentiality designations which should not receive any consideration in a costs analysis.

37. Finally, and perhaps most disingenuously, Canada argues that the Investors’ inappropriate conduct “continues to this day” through their “groundless” challenge to the costs proceedings. The Investors have exercised their rights under applicable law and in a principled manner to challenge the impartiality of this Tribunal. In the face of Canada’s unreasonable refusal to agree to a deferral of the costs phase pending the determination of that challenge, the Investors were forced to seek judicial relief from the Ontario Superior Court, which was granted.³¹

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 2ND DAY OF MARCH 2026.



Gregory J. Nash, K.C.

³⁰ Procedural Order No. 26 dated December 8, 2017.

³¹ Endorsement of the Ontario Superior Court, dated February 20, 2026.

ANNEX I – SUMMARY OF COSTS
(Costs Phase)

Summary		Amount (USD)
Nash Johnston LLP - Legal Fees		\$195,641.47
Third Parties - Fees		\$145,982.79
Total		\$341,624.26

ANNEX II – COST OF LEGAL REPRESENTATION

Nash Johnston LLP – July 1, 2025 – February 27, 2026*

	Hourly Rate	Hours Billed	Fees (USD)**
Alexander Little	CAD\$435	294.3	\$93,454.97
Brent Johnston	CAD\$585	169.5	\$72,384.98
Gregory J. Nash, K.C.	CAD\$735	146.7	\$78,711.89
Fee Reduction (20%)			
Total		610.5	\$195,641.47

***The Investors have excluded any costs unrelated to the arbitration (for example, pertaining to the Ontario Superior Court proceeding).**

****The Investors have used the currency exchange rate as of March 2, 2026 (\$1.00 CAD = \$0.73 USD)**

ANNEX III – COSTS OF THIRD PARTIES

Party	Description	Amount (USD)**
Torys LLP*	Professional services regarding international law and costs issues, including research, analysis, memoranda and conferences.	\$76,459.05
Frank Borowicz, K.C. (with 20% fee reduction)*	Consulting services regarding arbitration and strategic advice, including the marshalling and presentation of submissions.	\$69,523.74
Total		\$145,982.79

***The Investors have excluded any costs unrelated to the arbitration (for example, pertaining to the Ontario Superior Court proceeding).**

****The Investors have used the currency exchange rate as of March 2, 2026
(\$1.00 CAD = \$0.73 USD)**