

PROCEDURAL ORDER No. 3
June 21, 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 Order

1. On March 3, 2005, the Tribunal issued its Procedural Order No. 1 ("Order No. 1") outlining a schedule of proceedings which, among other things, directed the Parties to serve their Request for Documents to each other on May 10, 2005, and any Objections to such Requests for Documents on May 24, 2005.
2. The Parties timely submitted their Requests for Documents to the Tribunal.
3. On May 18, 2005, the Parties jointly requested the Tribunal to extend to June 7, 2005, the deadline for submitting their Objections to Document Requests ("Objections"). The Tribunal granted this request in its May 23, 2005, letter to the Parties and its Procedural Order No. 2 issued on May 31, 2005.
4. The Parties timely submitted their Objections to the Tribunal.

II. Scheduling of Proceedings

5. The Tribunal recalls its provision in Order No. 1 to the effect that the Parties are to produce requested documents "as soon as reasonably possible on a continuing basis" where there is no "objection to the request of a particular document or any class of documents."
6. The Tribunal welcomes the efforts of the Parties to respond to the document requests made. The Claimant has offered to provide "reasonable access to its Imperial Project files and any other documents responsive to Respondent's First Request for inspection and identification for copying at mutually

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agreeable dates and times.”¹ Likewise, Respondent has agreed to produce non-public, non-privileged documents by identifying the location(s) where the Claimant may access the documents.²

7. In reviewing the Objections that have been filed by the parties, the Tribunal notes that the objections, in the main, are stated in quite general terms. It is unclear to the Tribunal which of these objections, practically speaking, represent document production concerns that the Parties would like further guidance on so as to avoid production delays and which thus represent specific issues on which the Parties wish to receive a Tribunal ruling.
8. Where there are particular objections to requests for documents that a Party wishes the Tribunal to rule upon, the Tribunal directs the Parties to request such a ruling by June 30, 2005, and to provide as a part of that request specificity as to the grounds for upholding or overturning a given request or objection for a category of documents or a particular document. The Party not so requesting will be given an opportunity to file a Reply to a particular requested ruling by July 7, 2005. It is the intent of the Tribunal to rule upon any such specified request expeditiously and if at all possible on the basis of papers filed with the Tribunal.
9. In Order No. 1, the Tribunal indicated that it would, “if necessary, schedule a hearing on such objections.” Recognizing that the consequences of the Objections for the production of documents may not be apparent until after the scheduled final date for exchange of documents, the Tribunal, in addition to the process described in paragraph 8, reserves the date of August 19, 2005 for a hearing in Washington, D.C. to address any unresolved document production issues. If, after voluntary production of documents, a Party requests the Tribunal to overrule an objection to production, such Party shall identify the objection and state the grounds for overruling the objection by August 11, 2005.
10. In Order No. 1, the Tribunal also indicated that it would notify the Parties of the precise dates of the Hearing on the claim as soon as practicable. The Tribunal reserves the week of July 10 to July 14, 2006 for the Hearing in this case. The Tribunal requests the Parties also to reserve July 17 through July 19 for the possible continuation of the proceeding.

¹ Claimant’s Objections at pp. 2-3.

² Respondent’s Objection at p. 2.

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11. In setting the dates of the Hearing, the Tribunal also reschedules the date for Submission of Witness Lists to June 12, 2006 and the date for the holding of a Pre Hearing Procedural Hearing to June 13, 2006.
12. The Schedule otherwise set forth in Order No. 1 of March 3, 2005, remains unchanged.

Michael K. Young

President of the Tribunal on behalf of the Tribunal

David D. Caron, Tribunal Member

Donald L. Morgan, Tribunal Member