

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

BETWEEN:

LONE PINE RESOURCES INC.

Claimant

AND

GOVERNMENT OF CANADA

Respondent

**PROCEDURAL ORDER ON AMICI APPLICATIONS FOR LEAVE TO FILE
NON-DISPUTING PARTY SUBMISSIONS**

10 SEPTEMBER 2017

THE ARBITRATION TRIBUNAL:

**V.V. Veeder (President)
Professor Brigitte Stern
David Haigh**

1. *Introduction:* Paragraph 57 of Procedural Order No. 1 provides that the Parties agree that a non-disputing party that is a person of a Party to NAFTA, or that has a significant presence in the territory of a Party to NAFTA, (a “Third Party”) and that wishes to file a written submission with the Tribunal, may apply for leave from the Tribunal to file such a submission. Such a request is governed by Section B (Procedures) of the NAFTA Commission Joint Statement on non-disputing party participation published on 7 October 2003.
2. The Tribunal refers to the timetable agreed in Procedural Order Nos. 4 and 5 and issues its decision on (Amicus) Applications for Leave to File Non-Disputing Party Submissions in accordance with these Orders.
3. *Procedural History:* On 4 August 2016, the ICSID Secretariat received an Application for Leave to File a Non-Disputing Party Submission from Mr Muhammad Muzahidul Islam, a lawyer in Bangladesh (hereafter “Mr Islam’s application”). On 11 August 2016, the ICSID Secretariat received a similar application from *le Centre québécois du droit de l’environnement* (“CQDE”), which was renewed on 16 August 2017 (hereafter “the CQDE’s Application”). Both Applications attached the actual written submission for which leave was sought.
4. The Disputing Parties provided their written comments on both Applications on 30 August 2017. The Claimant took no position on Mr Islam’s Application and requested that the CQDE’s Application be dismissed. The Respondent requested that Mr Islam’s Application be rejected and that the CQDE’s Application be granted.
5. *The Tribunal’s Analysis:* It is appropriate to consider each Application in turn.
6. *M. Islam’s Application:* With respect to Mr Islam’s Application, the Tribunal is not persuaded that Mr Islam meets the requirements of Procedural Order No. 1 and the NAFTA Commission Joint Statement. As the Respondent points out, Mr Islam has not demonstrated that he is a person from a Party to NAFTA, let alone that he has any significant presence in North America. In addition, it is doubtful that he has any relevant interest in this arbitration or that he could materially assist the Tribunal in the determination of any issues disputed between the Parties.
7. *CQDE’s Application:* With respect to the application by CQDE, the Tribunal accepts that CQDE meets the requirements of Procedural Order No. 1 and the NAFTA Commission Joint Statement; and that it has a relevant interest in this case, with considered views concerning several issues disputed between the Parties. The Tribunal notes the Respondent’s favourable comments on CQDE’s Application, as also the Claimant’s statement that it “does not take issue with the Applicant’s qualifications as an environmental organization, experience or involvement in other cases.” (Claimant’s Comments, paragraph 27).

8. *Procedural Order*: For the above reasons, the Tribunal decides as follows:

- (1) Mr Islam's Application for leave is rejected and,
- (2) CQDE's Application for leave is granted.

[*Signed*]

V.V. Veeder
On behalf of the Tribunal
Date: 10 September 2017