

Declaration of the Free Trade Commission on non-disputing party participation

A. Non-disputing party participation

1. No provision of the Canada-Chile Free Trade Agreement ("CCFTA") limits a Tribunal's discretion to accept written submissions from a person or entity that is not a disputing party (a "non-disputing party").
2. Nothing in this statement by the Free Trade Commission ("the FTC") prejudices the rights of CCFTA Parties under Article G-29 of the CCFTA.
3. Considering that written submissions by non-disputing parties in arbitrations under Section II of Chapter G of CCFTA may affect the operation of the Chapter, and in the interests of fairness and the orderly conduct of arbitrations under Chapter G, the FTC recommends that Chapter G Tribunals adopt the following procedures with respect to such submissions.

B. Procedures

1. Any non-disputing party that is a person of a Party, or that has a significant presence in the territory of a Party, that wishes to file a written submission with the Tribunal (the "applicant") will apply for leave from the Tribunal to file such a submission. The applicant will attach the submission to the application.
2. The application for leave to file a non-disputing party submission will:
 - (a) be made in writing, dated and signed by the person filing the application, and include the address and other contact details of the applicant;

- (b) be no longer than 5 typed pages;
- (c) describe the applicant, including, where relevant, its membership and legal status (e.g., company, trade association or other non-governmental organization), its general objectives, the nature of its activities, and any parent organization (including any organization that directly or indirectly controls the applicant);
- (d) disclose whether or not the applicant has any affiliation, direct or indirect, with any disputing party;
- (e) identify any government, person or organization that has provided any financial or other assistance in preparing the submission;
- (f) specify the nature of the interest that the applicant has in the arbitration;
- (g) identify the specific issues of fact or law in the arbitration that the applicant has addressed in its written submission;
- (h) explain, by reference to the factors specified in paragraph 6, why the Tribunal should accept the submission; and
- (i) be made in a language of the arbitration.

3. **The submission filed by a non-disputing party will:**

- (a) be dated and signed by the person filing the submission;
- (b) be concise, and in no case longer than 20 typed pages, including any appendices;
- (c) set out a precise statement supporting the applicant's position on the issues; and
- (d) only address matters within the scope of the dispute.

4. The application for leave to file a non-disputing party submission and the submission will be served on all disputing parties and the Tribunal.

5. The Tribunal will set an appropriate date by which the disputing parties may comment on the application for leave to file a non-disputing party submission.

6. In determining whether to grant leave to file a non-disputing party submission, the Tribunal will consider, among other things, the extent to which:
 - (a) the non-disputing party submission would assist the Tribunal in the determination of a factual or legal issue related to the arbitration by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties;
 - (b) the non-disputing party submission would address matters within the scope of the dispute;
 - (c) the non-disputing party has a significant interest in the arbitration; and
 - (d) there is a public interest in the subject-matter of the arbitration.

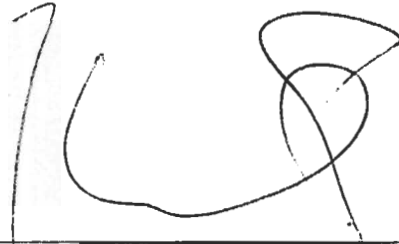
7. The Tribunal will ensure that:
 - (a) any non-disputing party submission avoids disrupting the proceedings; and
 - (b) neither disputing party is unduly burdened or unfairly prejudiced by such submissions.

8. The Tribunal will render a decision on whether to grant leave to file a non-disputing party submission. If leave to file a non-disputing party submission is granted, the Tribunal will set an appropriate date by which the disputing parties may respond in writing to the non-disputing party submission. By that date, a non-disputing CCFTA Party may, pursuant to Article G-29, address any issues of interpretation of the Agreement presented in the non-disputing party submission.

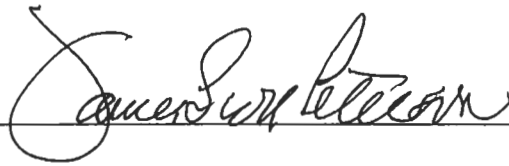
9. The granting of leave to file a non-disputing party submission does not require the Tribunal to address that submission at any point in the arbitration. The granting of leave to file a non-disputing party submission does not entitle the non-disputing party that filed the submission to make further submissions in the arbitration.

10. Access to documents by non-disputing parties that file applications under these procedures will be governed by the FTC's Note of October 31, 2002.

For the Government of Chile

A stylized handwritten signature consisting of a vertical line on the left, a large loop in the middle, and a smaller loop on the right, all connected by a horizontal line at the bottom.

For the Government of Canada

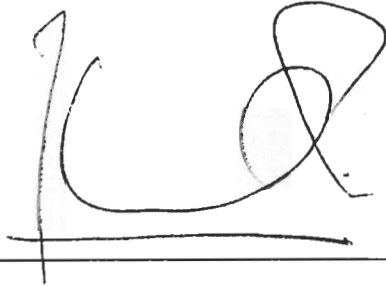
A handwritten signature in cursive script that reads "Cameron Surtees".

Statements of the Canada-Chile Free Trade Commission on the operation of Chapter G

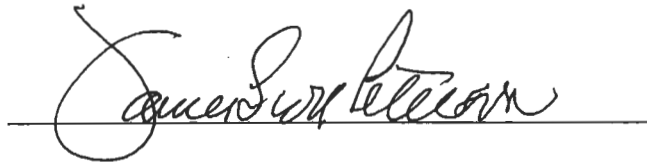
Having reviewed the operation of proceedings under Chapter G of the Canada-Chile Free Trade Agreement, the Free Trade Commission hereby issues the attached declarations on non-disputing party participation and open hearings in order to enhance the transparency of Chapter G and provide guidance to investors and to Tribunals constituted under Section II of the Chapter.

Agreed at Santiago on the 16th day of November, 2004 and signed subsequently in triplicate in the English, French and Spanish languages, each text being equally authentic.

For the Government of Chile



For the Government of Canada



**Declaration of the Free Trade Commission
on Open Hearings in CCFTA Chapter G Arbitrations**

Having reviewed the operation of arbitration proceedings conducted under Chapter G of the Canada-Chile Free Trade Agreement, the Parties affirm that they will consent, and will request the consent of disputing investors and, as applicable, tribunals, that hearings in Chapter G disputes to which they are a party be open to the public, except to ensure the protection of confidential information, including business confidential information. The Parties recommend that tribunals determine the appropriate logistical arrangements for open hearings in consultation with disputing parties. These arrangements may include, for example, use of closed-circuit television systems, Internet webcasting, or other forms of access.

For the Government of Chile



For the Government of Canada

