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10 Attorneys for Complainant,  
 METALCLAD CORPORATION

11  
 12  
 13 INTERNATIONAL CENTRE FOR SETTLEMENT  
 14 OF INVESTMENT DISPUTES

15 METALCLAD CORPORATION,	)	NOTICE OF CLAIM
16	)	
17 Complainant,	)	
18	)	
19 vs.	)	
20	)	
21 THE GOVERNMENT OF THE UNITED	)	
22 MEXICAN STATES, AND THE	)	
23 MEXICAN STATE OF SAN LUIS	)	
24 POTOSI,	)	
25	)	
26 Respondent.	)	

27 Metalclad Corporation, a Delaware corporation,  
 28 ("Complainant") submits this Notice of Claim to arbitrate an  
 investment dispute between Claimant and The United Mexican  
 States ("Respondent") under the North American Free Trade  
 Agreement, ("NAFTA"), Investment Chapter. Complainant

1 respectfully submits the following:

2 1. A precise designation of each party to the dispute  
3 and the address of each:

4 a. Claimant: Metalclad Corporation,  
5 a Delaware corporation:  
6 Address: 3737 Birch Street, Suite 300  
7 Newport Beach, CA 92660  
8 Telephone: (714)476-2772

9 Legal Counsel: Clyde C. Pearce, Esq., of  
10 counsel  
11 Bayh & Connaughton, P.C.  
12 1350 Eye Street, N.W.  
13 Washington, D.C. 20005

14 Contact Address: 20 East Alisal Street, Ste.206  
15 Salinas, CA 93901  
16 Contact Telephone: (408)422-6796

17 b. Respondent: Secretaría de Comercio y  
18 Fomento  
19 Industrial Dirección General  
20 de Inversión Extranjera  
21 Oficialía de Partes  
22 Address: Avenida Insurgentes Sur 1940  
23 Colonia La Florida  
24 México, Distrito Federal,  
25 01030

26 2. The relevant provisions embodying the agreement of  
27 the parties to refer the dispute to arbitration are found in  
28 the NAFTA, Chapter Eleven, Section B, Articles 1115 through  
1122, inclusive; more specifically:

a. Article 1122 contains Respondent's consent to  
arbitral jurisdiction for Chapter II of the ICSID  
Convention (Jurisdiction of the Centre) and the  
Additional Facility Rules [1122(2)a)];

b. Article 1121 sets forth the conditions  
precedent for Complainant herein to refer a dispute to

1 arbitration, requiring that Complainant consents to  
2 arbitration in accordance with the procedures of NAFTA.  
3 See Complainant's "Consent To Arbitration And Waiver Of  
4 Rights Of Disputing Investor And The Enterprise"  
5 (hereafter "Consent and Waiver"), copy attached hereto  
6 as Exhibit 1, the original of which was delivered to  
7 Respondent on December 30, 1996;

8 c. Article 1119 requires that Claimant deliver to  
9 Respondent a written "Notice of Intent To Submit A  
10 Claim To Arbitration" (hereafter "Notice of Intent"), a  
11 copy of which is attached as Exhibit 2, the original of  
12 which was delivered to Respondent, October 2, 1996.

13 3. Approval by the Secretary-General as required by  
14 Article 3(1)(c) of the Arbitration (Additional Facility)  
15 Rules and Article 4 of the Additional Facility Rules, and in  
16 consonance with the letter of December 24, 1996 from ICSID  
17 Legal Adviser, Antonio R. Parra, the approval therein  
18 required will be granted following the submission of this  
19 Notice of Claim.

20 4. Information concerning the issues in dispute and  
21 an indication of the amount in controversy:

22 a. Metalclad claims that Respondent has violated  
23 Section A, Chapter Eleven of the NAFTA, and  
24 specifically:

- 25 (i) Article 1102(1),(2) and (3);  
26 (ii) Article 1103;  
27 (iii) Article 1104;  
28 (iv) Article 1105;

- 1 (v) Article 1106(1)(f);  
2 (vi) Article 1110;  
3 (vii) Article 1111.

4 See Notice of Intent, Exhibit 2.

5 b. Respondent has discriminated against  
6 Complainant by denying "national treatment," "most  
7 favored nation" treatment, and the better of national  
8 treatment or most favored nation treatment; and, has  
9 denied Complainant treatment in accordance with  
10 international law, including fair and equitable  
11 treatment and full protection and security.

12 c. In an area referred to as La Pedrera, in the  
13 community of Guadalcazar, state of San Luis Potosi,  
14 Mexico, sits the only hazardous waste landfill facility  
15 in all of Mexico built to state-of-the-art standards,  
16 and formally approved by Mexican governmental officials  
17 as meeting, and in some cases exceeding, all norms and  
18 requirements of Mexican law. This project was built by  
19 Metalclad Corporation following numerous meetings with  
20 Mexican officials and in response to the invitation of  
21 those officials to Metalclad to help solve one of  
22 Mexico's most urgent problems. Reportedly, over 7  
23 million tons of hazardous waste are generated annually  
24 in Mexico. The state of San Luis Potosi, according to  
25 its environmental director, produces 200 tons of toxic  
26 waste daily.

27 Not one ton of this notorious backlog of  
28

1 hazardous waste has been deposited in the landfill at  
2 La Pedrera, however. The landfill is not open. The 25  
3 million dollar state-of-the-art Metalclad investment,  
4 completed and ready for opening since March 10, 1995,  
5 sits idle while scores of clandestine dump sites,  
6 canyons, rivers, streams and municipal landfills  
7 illicitly choke down thousands of tons of toxic waste.  
8 Complainant's financial projections anticipated receipt  
9 of approximately 160 thousand tons of waste a year, and  
10 profits from the enterprise approximating 12 million  
11 dollars per year.

12 In good faith and detrimental reliance upon  
13 representations of federal and state officials,  
14 Metalclad spent millions of dollars on unnecessary  
15 tests, studies, reports, audits and expert analyses in  
16 an effort to satisfy "concerns" raised by San Luis  
17 Potosi officials. Despite the fact that the Complainant  
18 has complied with all the applicable legal requirements  
19 necessary to operate, and has signed an agreement with  
20 Respondent to operate its investment landfill project,  
21 Respondent has refused and continues to refuse to  
22 permit the opening and operating of the urgently needed  
23 facility because of apparent political differences with  
24 the state and local governments in question. This  
25 refusal, and the actions surrounding this refusal,  
26 constitute a direct and indirect expropriation of  
27

1 Complainant's investment and enterprise. Under NAFTA  
2 and principles of international law, such taking is  
3 unlawful. This expropriation has not been for a public  
4 purpose, has not been on a non-discriminatory basis,  
5 has not been in accordance with due process of law  
6 and minimum standard of treatment requirements, and has  
7 not been upon payment of compensation as provided by  
8 the NAFTA in Article 1110.

9 d. Respondent, through officials in the State  
10 Government of San Luis Potosi, has required Complainant  
11 to transfer to officials of the State Government of San  
12 Luis Potosi, technology processes and other proprietary  
13 knowledge as a precondition to the operation of  
14 Complainant's enterprise.

15 e. Complainant seeks damages in the approximate  
16 amount of \$43,125,000 (U.S.) plus damages for the value  
17 of Complainant's enterprise which are not yet fully  
18 determined.

19 5. Pursuant to Article 1123 of the NAFTA, the parties  
20 agree to the appointment of three arbitrators (in the  
21 absence of agreement otherwise, and none presently exists),  
22 one by each party, and the third, who shall be the presiding  
23 arbitrator, by agreement of the parties.

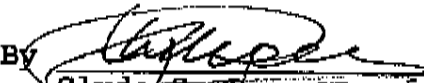
24 Also enclosed with this submission are copies of  
25 Certificate of Secretary setting forth pertinent resolutions  
26 of the Metalclad Board of Directors authorizing the action  
27  
28

1 taken by Metalclad regarding this claim and authorizing the  
 2 undersigned as Claimant's legal representative attached as  
 3 Exhibit 3; a Resolution of Metalclad's enterprise, Coterin,  
 4 authorizing and ratifying Coterin's waiver of rights and  
 5 consent to jurisdiction attached as Exhibit 4. A check  
 6 payable to International Centre for Settlement of Investment  
 7 Disputes in the amount of one hundred fifty dollars (U.S.)  
 8 in compliance with Article 4 of the Additional Facility  
 9 Rules (Administrative and Financial) was submitted on  
 10 December 20, 1996. An additional check for one hundred  
 11 fifty dollars (U.S.) also payable to International Centre  
 12 for Settlement of Investment Disputes is attached and  
 13 submitted herewith.

14 With this submission, Metalclad respectfully requests  
 15 approval and registration by the Secretary-General in  
 16 accordance with the ICSID Additional Facility Rules,  
 17 specifically, Article 4 thereof; and, Article 4 of the  
 18 Arbitration (Additional Facility) Rules.

19 DATED: January 2, 1997.

20 BAYH & CONNAUGHTON, P.C.

21  
 22 By   
 23 Clyde C. Pearce, of counsel  
 24 Attorneys for Complainant

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