NAFTA Arbitration under the UNCITRAL Arbitration Rules

INTERNATIONAL THUNDERBIRD GAMING CORPORATION

Claimant

versus

THE UNITED MEXICAN STATES

Respondent

PROCEDURAL ORDER NO. 4

(24 December 2003)

CONSIDERING:

(A) Procedural Order No. 1 and, in particular, Section 8 thereof;

(B) Respondent's "Escrito de Contestación" dated 18 December 2003, including "Excepciones de Incompetencia y Admisibilitad" (hereinafter the "Preliminary Question");

(C) Claimant's "Submission on Whether to Bifurcate the Proceedings" dated 22 December 2003;

(D) That there are no circumstances warranting a bifurcation of the proceedings;

(E) That, moreover, the facts relating to the Preliminary Question appear to be interwoven with the facts on the merits;

(F) That, however, the Tribunal desires to be better informed about the factual and legal aspects of the status of Claimant as an investor under the NAFTA.

THE ARBITRAL TRIBUNAL HEREBY DECIDES AS FOLLOWS:

1. The Preliminary Question is joined with the merits and no bifurcation will take place.

2. The schedule set forth in Section 7.2 of Order No. 1 shall apply and not the schedule (including the Sections referenced therein) set forth in Section 7.3. In particular, the Hearing Date of 26-30 April 2004 is maintained.

3. The Tribunal invites the Parties to address the Preliminary Question in their forthcoming written and oral submissions with specific reference to the facts and the law, including previous cases, in particular in the light of Article 1117 of the NAFTA.

On behalf of the Arbitral Tribunal,

Professor Dr. Albert Jan van den Berg,
Presiding Arbitrator