

COURTESY ENGLISH TRANSLATION

Letter No.: DGCJN.511.06.360.02

Mexico City, 8 May 2002

Re: Marvin Roy Feldman Karpa vs. United Mexican
States
ICSID Case No. ARB(AF)/99/1

Members of the Tribunal
Attention: Alejandro Escobar
Secretary of the Tribunal
ICSID -1818 H Street, N.W.,
Washington, D.C. 20433
United States of America

This submission responds to the questions raised by the Tribunal in the Secretariat's letter dated April 17, 2002, namely:

- a) How should the Tribunal, in rendering its opinion on the merits, treat the pending parallel court actions in Mexico (other than the 1993 *Amparo* proceeding), given that the Mexican courts are considering under Mexican law some of the same issues that this Tribunal is considering under NAFTA and international law?; and
- b) Are the pending Mexican court proceedings consistent with the waiver requirements of NAFTA Article 1121(2)(b), taking into account, inter alia, the exception of extraordinary relief, and notably the apparent differences between the English and the Spanish versions of that Article?

This submission also responds to the Claimant's request that the Tribunal should, upon receipt of the parties' submissions, declare the proceedings closed pursuant to Article 45 of the ICSID Additional Facility Rules.

I. INTRODUCTION

1. The Tribunal will recall that by the end of the Written phase of this arbitration, two series of domestic court proceedings had been initiated by the Claimant. The first series (the 1998 Fiscal Court Proceedings -now, Federal Court of Fiscal and Administrative Justice) had been completed with all issues resolved in favor of the Secretaría Hacienda y Crédito Público (SHCP). The second series (the 1999 Fiscal Court Proceedings) were then ongoing and had resulted in divided success. The latter proceedings are still ongoing, a full year later.