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Global Affairs Canada

Department of Justice



CANADA

Affaires mondiales Canada

Ministère de la Justice

125 Sussex Drive
Ottawa, Ontario
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VIA EMAIL

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June 14, 2024

Dear Professor Kaufmann-Kohler and Members of the Tribunal,

Re: *Westmoreland Coal Company v. Government of Canada* (ICSID Case No. UNCT/23/2)

Canada submits the enclosed Statement of Costs pursuant to the Tribunal's instruction of 2 May 2024, Article 1135(1) of the North American Free Trade Agreement, Articles 40 and 42 of the 2013 UNCITRAL Arbitration Rules, and Section 25 of Procedural Order No. 1. The Respondent's costs of defence amount to **CAD \$1,901,277.51**, comprising **CAD 1,437,780.93** in costs of legal representation (Annex I) and **CAD 463,496.58** in disbursements (Annex II).

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Zeman'.

Krista Zeman
A/Deputy Director and Senior Counsel
Trade Law Bureau

cc: Dr. Magnus Jesko Langer (Assistant to the Tribunal)
Anna Holloway, UNCT/23/2@icsidcases.worldbank.org (ICSID)
Lauren F. Friedman, Kevin D. Mohr, Cedric Soule, Rikki Stern, Tamsin Parzen, (King & Spalding LLP)
Heather Squires, Alexandra Dosman, Maria Cristina Harris, Christopher Koziol, Darian Bakelaar, Marianna Maza (Trade Law Bureau)

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ANNEX I – COST OF LEGAL REPRESENTATION

FISCAL YEAR 2022/2023 (30 June 2022 to 31 March 2023) (Notice of Arbitration, Constitution of the Tribunal, First Session with the Tribunal)			
Participant	Professional Fees		
	Rate (CAD)	Hours	Fees (CAD)¹
<i>Federal Legal Representation</i>			
Lawyers			
Krista Zeman, Lead Counsel	\$272.51	177.00	\$48,234.27
Heather Squires, Counsel	\$272.51	201.50	\$54,910.77
E. Alexandra Dosman, Counsel	\$253.72	135.50	\$34,379.06
Mark Klaver, Counsel	\$253.72	100.10	\$25,397.37
Maria Cristina Harris, Counsel	\$253.72	170.92	\$43,364.98
Christopher Koziol, Counsel	\$212.32	208.25	\$44,215.64
Paralegals			
Darian Bakelaar, Paralegal	\$169.56	210.00	\$35,607.60
Marianna Maza Pinero, Paralegal	\$141.00	168.83	\$23,805.50
<i>Provincial Legal Representation</i>			
Kyle Dickson-Smith	\$176.82	19.6	\$3,465.67
Opeyemi Bello	\$176.82	182.3	\$32,234.29
Sub-Total 2022/2023		1,574.00	\$345,615.14
FISCAL YEAR 2023/2024 (1 April 2023 to 31 March 2024) (Procedural Order No. 1, Confidentiality Order, Response to Notice of Arbitration and Memorial on Jurisdiction, Response to Memorial on Jurisdiction, Reply Memorial on Jurisdiction, Rejoinder on Jurisdiction)			
Participant	Professional Fees		
	Rate (CAD)	Hours	Fees (CAD)
<i>Federal Legal Representation</i>			

¹ The fiscal year of the Canadian federal government and Alberta’s provincial government are both April 1 to March 31. Canada’s claimed costs in this arbitration represent those incurred from June 30, 2022, the date of the filing of Westmoreland Coal Company’s Notice of Intent, to the date of this cost statement. The cost of federal counsel’s and paralegals’ time in this arbitration has been assessed by applying the “billable rate” used by Canada’s Department of Justice in its cost recovery process. This rate is substantially below market rate and ranges from CAD 141.00 per hour for paralegals to CAD 272.51 per hour for the most senior lawyers. Costs include time spent meeting with clients, undertaking legal research and analysis, drafting and reviewing written pleadings, addressing procedural matters, and appearing before the Tribunal. The cost of provincial counsel’s time in this arbitration has similarly been assessed by applying a “billable rate” applied by Alberta’s Ministry of Justice in its cost recovery processes. In all cases, the rate is below the market rate.

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Lawyers			
Krista Zeman, Lead Counsel	\$272.51	514.25	\$140,138.27
Heather Squires, Counsel	\$272.51	359.00	\$97,831.09
E. Alexandra Dosman, Counsel	\$253.72	390.75	\$99,141.09
Mark Klaver, Counsel	\$253.72	372.17	\$94,426.13
Maria Cristina Harris, Counsel	\$253.72	494.28	\$125,409.57
Christopher Koziol, Counsel	\$212.32	303.25	\$64,386.04
Paralegals			
Darian Bakelaar, Paralegal	\$169.56	290.00	\$49,172.40
Marianna Maza Pinero, Paralegal	\$141.00	510.50	\$71,980.50
<i>Provincial Legal Representation</i>			
Kyle Dickson-Smith	\$207.66	62.7	\$13,020.28
Opeyemi Bello	\$207.66	408.2	\$84,766.81
Sub-Total 2023/2024		3,705.10	\$840,272.18
FISCAL YEAR 2024/2025 (1 April 2024 to 31 May 2024) (Comments on NAFTA Article 1128 Submission, Hearing on Jurisdiction)			
Participant	Professional Fees		
	Rate (CAD)	Hours	Fees (CAD)
<i>Federal Legal Representation</i>			
Lawyers			
Krista Zeman, Lead Counsel	\$272.51	155.50	\$42,375.31
Heather Squires, Counsel	\$272.51	124.00	\$33,791.24
E. Alexandra Dosman, Counsel	\$272.51	183.25	\$49,937.46
Maria Cristina Harris, Counsel	\$253.72	119.02	\$30,197.75
Christopher Koziol, Counsel	\$212.32	91.25	\$19,374.20
Paralegals			
Darian Bakelaar, Paralegal	\$169.56	181.00	\$30,690.36
Marianna Maza Pinero, Paralegal	\$141.00	134.08	\$18,905.28
<i>Provincial Legal Representation</i>			
Opeyemi Bello	\$207.66	128.2	\$26,622.01
Sub-Total 2024/2025		1,116.30	\$251,893.61
TOTAL COST OF LEGAL REPRESENTATION			\$1,437,780.93

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ANNEX II - DISBURSEMENTS

Disbursements	Total (CAD)
Arbitration Costs	
Tribunal Advancements and ICSID Fees and Expenses (USD 250,000)	\$334,611.28
Expert and Consultant Costs	
Hughes Hubbard & Reed LLP (USD 77,344.29)	\$104,899.87
Core Legal (Trial Technology & Graphic Consultants)	\$19,554.80
Additional Disbursements	
Hearing Costs	\$4,430.63
TOTAL DISBURSEMENTS	\$463,496.58