

May 23, 2017

By email

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**Re: Lion Mexico Consolidated L.P. v United Mexican States**  
(ICSID Case No. ARB(AF)/15/2)

Dear Mesdames and Sirs,

I write to you as instructed by the President of the Tribunal. Within the past year Mr. Iván Mercado has addressed the following letters to this Tribunal and ICSID, seeking the Tribunal's leave to participate as a non-disputing party in this arbitration: letter of May 30, 2016; letter of June 20, 2016; letter of August 24, 2016; and letter of April 20, 2017. These communications include certain legal arguments with regard to these proceedings, inform of the existence of a number of ongoing judicial procedures in Mexico, and attach a few exhibits in support of his contentions.

At the Tribunal's request, on May 17, 2017, the Parties submitted their positions on whether this Tribunal should allow Mr. Mercado's applications, the procedural treatment they should receive, and any other contention they wished to make in this regard.

The Parties agree that, in this case, the Tribunal should apply to Mr. Mercado's request the procedure and requisites described in the *Statement of the Free Trade Commission on Non-Disputing Party Participation*, of October 7, 2003 [the "**Statement**"]. The Tribunal concurs with the Parties' common position. The Statement suggests an effective and well-balanced procedure to deal with this kind of petitions. In fact, most NAFTA tribunals have followed its recommendations in the past, at the Parties' request or on its own motion.

Furthermore, the Parties agree, and the Tribunal concurs, that Mr. Mercado's petitions have not fulfilled the requisites set out in the Statement. For instance, Mr. Mercado's communications do not clarify many particulars regarding his identity and background, as the Statement demands.

For the foregoing reasons, the Arbitral Tribunal rejects Mr. Mercado's applications to file a written submission as a non-disputing party in this arbitration.

Yours sincerely,

*[signed]*

Anneliese Fleckenstein  
Secretary of the Tribunal

cc:

Members of the Tribunal

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