

Investment Treaty News (ITN), Jan. 27, 2006

Published by the International Institute for Sustainable Development
(<http://www.iisd.org/investment/itn>)

Tribunal rejects NAFTA claims against Mexico in Thunderbird Gaming case,
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A NAFTA tribunal has issued its final award in an arbitration between the Canadian company International Thunderbird Gaming and the Government of Mexico. The Canadian company owns and operates gaming and entertainment facilities in Mexico, and sought damages for alleged injuries resulting from the regulation and closure of its gaming facilities by the Mexican government.

In the arbitration ruling released to the parties yesterday, two of the tribunal members, Prof. Albert Jan Van Den Berg and Agustin Portal Ariosa rejected all of the investor's allegations of breach of Chapter 11 of the NAFTA. Thunderbird had alleged that Mexico breached NAFTA protections against expropriation, as well as those guaranteeing national treatment and a minimum standard of treatment.

In a separate opinion, the remaining arbitrator, Prof. Thomas Walde argued for a breach of one provision of NAFTA Chapter 11, Article 1105, the minimum standard provision. In so doing, Walde concurred with the majority's view that an investor's "legitimate expectations" form part of the guarantee by the host state to provide for "fair and equitable treatment"; however, Walde differed as to the application of that treaty standard to the facts of the Thunderbird case.

In awarding costs, the majority of the tribunal held that the losing claimant should cover three-quarters of the costs for the arbitration, as well as three-quarters of the costs for Mexico's legal representation. Accordingly, the tribunal ordered Thunderbird to pay a further \$1.12 Million (US) to Mexico for the Government's legal costs, as well as an additional \$126,000 (US) to supplement amounts already contributed by Thunderbird to the costs of the arbitration.

Copies of the final award and the separate opinion are now available in the Investment Treaty News on-line Documents Centre by clicking [here](#).