















## **6. Costs**

The Tribunal ordered the Claimant to pay legal costs of the Respondent amounting to CAN \$9,000,000 (¶9.11). The Tribunal decided that each party should bear their own arbitration costs (¶9.15).

## **7. Dissenting Opinion of Professor Francisco Orrego Vicuña**

Orrego Vicuña opined that a broad interpretation of the exercise of state authority would transform a carve-out provision into an escape clause because any exercise of state authority would result in excluding the transaction from the jurisdiction of NAFTA (¶6.65). Hence, the concept of discrimination is broader than that set out in the award. He concluded that the different treatment is sufficient to prove discrimination (¶7.87). He further noted that the possibility of submitting a claim under Article 1105 is not limited by the issue of procurement and could also allow for claims relating to more favourable treatment (¶7.90).