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T-1217-90

MONTREAL, QUEBEC, THIS 6<sup>th</sup> DAY OF DECEMBER 1996

**PRESENT:** THE HONOURABLE MR. JUSTICE NADON

**BETWEEN:** ALCAN ALUMINIUM LIMITED  
- and -  
ALCAN SMELTERS AND CHEMICALS LIMITED

Plaintiffs

**AND:**

UNICAN INTERNATIONAL S.A.  
- and -  
THE SHIP M.V. "CARRYBULK" AND HER  
OWNERS  
- and -  
C.T.O. INTERNATIONAL LIMITED

Defendants

#1. Application on behalf of Defendant UNICAN INTERNATIONAL S.A. for an Order awarding costs in favour of Defendant UNICAN INTERNATIONAL S.A. on a solicitor and client basis or alternatively, to award UNICAN a lump sum of \$100,000.00 in addition to its taxed costs and for the following special direction to the taxation officer:

- a) That the taxable services under part II of Tariff B be taxed throughout under column V, for the maximum number of units thereunder and that all disbursements claimed under part III of Tariff B be allowed, as detailed in the *pro forma* bills of costs filed as Exhibit "G" to the Affidavit of Francis Rouleau.

Or, alternatively, any other order that this Honourable Court may deem appropriate together with costs on a solicitor and client basis on this Application.

(Rules 344, 346 and Tariff A and B of the *Federal Court Rules*)

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#2. Application on behalf of Defendant C.T.O. International Limited for an Order for special directions as to costs and for an order that the costs of Plaintiffs be limited to a lump sum award of \$10,000 or, alternatively, that its costs be taxed in accordance with column I of Part II of Tariff B, that the costs of Defendant Unican International S.A. be taxed by application of the least number of units in each category of column III of Part II of Tariff B.

[Rules 3, 344, 346 and Tariffs A and B of the *Federal Court Rules*]

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#3. Application on behalf of Plaintiffs for an order to increase their taxable costs from those outlined in column three of the tariff to column four (halfway), for directions relating to their taxable fees and disbursements with respect to Defendant CTO International Ltd.'s counter claim and for an order to decrease the taxable costs of Defendant Unican International S.A. from column three of the tariff to column two (halfway).

[Rules 344 et seq. of the *Federal Court Rules*]

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- #4. Application on behalf of Plaintiffs for an Order:
1. for special direction as to costs to be awarded to the Plaintiffs;
  2. extending the delay within which to present this motion;
  3. that their costs be taxed under the highest number of units in each category of column four of Part II of Tariff B;
  4. with respect to the costs payable to them by Defendant CTO International Limited arising from the dismissal of the counter claim of Defendant CTO International Limited.

[Rules 3, 344 and 346 of the *Federal Court Rules*]

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**ORDER AND REASONS**

Before me are four (4) motions relating to the issue of costs. At the commencement of the hearing counsel for the Defendant CTO International Limited ("CTO") sought to adjourn all four (4) motions to a date in the new year on the grounds that he had been under the impression that all counsel were agreed that the motions should be adjourned and that, as a result, he was not prepared to proceed. Counsel for CTO also stated that he needed to cross examine further on the affidavits before making submissions on the motions. Counsel for the Plaintiffs indicated that he also wished to obtain an adjournment.

I informed counsel that I was of the view that the hearing should be adjourned. As February 10, 1997 is a time which is convenient to everyone, I hereby order that the hearing be continued on that day at 2 h 30 p.m. at Montreal.

The transcripts of the cross examinations shall be filed no later than February 7, 1997, 1:00 p.m.

Lastly, following counsels' representations, I ordered that a certain number of issues should be decided by me and not by the taxing officer. Those issues are:

- 1) whether the Plaintiffs are entitled to costs following the dismissal of Defendant CTO's counterclaim. A preliminary issue is whether the

Plaintiffs can raise this issue beyond the time prescribed by Rule 337(5).

- 2) whether the Defendant UNICAN can claim costs in relation to a letter of guarantee issued following the arrest of the CARRYBULK. If so, what amount is UNICAN entitled to?
- 3) whether UNICAN can claim costs in relation to work performed by an articling student and, if yes, what amount is it entitled to?
- 4) whether UNICAN can claim costs in relation to certain travel expenses and, if yes, what amount is it entitled to?

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Marc Nadon  
Judge

I HEREBY CERTIFY that the above document is a true copy of the original filed of record in the Registry of the Federal Court of Canada the 6<sup>th</sup> day

of December A.D. 19 96

Dated this 12 day of December 19 96

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Jean-Pierre Poggi  
Agent du greffe  
Registry Officer

**Federal Court of Canada**

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Court No. T-1217-90

BETWEEN

**ALCAN ALUMINIUM LIMITED  
- and -  
ALCAN SMELTERS AND CHEMICALS  
LIMITED**

Plaintiffs

— and —

**UNICAN INTERNATIONAL S.A.  
- and -  
THE SHIP M.V. "CARRYBULK" AND  
HER OWNERS  
- and -  
C.T.O. INTERNATIONAL LIMITED**

Defendants

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**ORDER AND REASONS**

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**FEDERAL COURT OF CANADA**  
**IMMIGRATION DIVISION**  
**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**COURT NUMBER:** T-1217-90

**BETWEEN:** ALCAN ALUMINIUM LIMITED  
- and -  
ALCAN SMELTERS AND CHEMICALS  
LIMITED  
Plaintiffs

**AND:**

UNICAN INTERNATIONAL S.A.  
- and -  
THE SHIP M.V. "CARRYBULK" AND  
HER OWNERS  
- and -  
C.T.O. INTERNATIONAL LIMITED  
Defendants

**PLACE OF HEARING:** Montreal (Quebec)

**DATE OF HEARING:** December 6<sup>th</sup>, 1996

**REASONS FOR ORDER:** Honourable Mr. Justice Nadon

**DATED:** December 6<sup>th</sup>, 1996

**APPEARANCES:**

Mr. Trevor Bishop for the Plaintiffs

Mr. Andrew Ness  
Mr. Francis Rouleau for the Defendant Unican International S.A.  
Mr. Jeremy Bolger for the Defendant C.T.O. International Ltd

**SOLICITORS OF RECORD:**

Brisset, Bishop  
Montréal, Québec for the Plaintiffs

Sproule, Castonguay, Pollack  
Montréal, Québec for the Defendant Unican International S.A.

McMaster Meighen  
Montréal, Québec for the Defendant C.T.O. International Ltd

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