



For Counsel of Record

DISCLOSURE UNDERTAKING FOR BINATIONAL PANEL REVIEW UNDER SUBSECTION 77.021(2) OF THE SPECIAL IMPORT MEASURES ACT AND ARTICLE 1904 OF THE NORTH AMERICAN FREE TRADE AGREEMENT

FOR OFFICIAL USE ONLY

Disclosure Undertaking No. _____

IN THE MATTER OF the panel review of

Title of the definitive decision as per the first request for panel review

commenced on _____ month/day/year

I, _____, in my capacity as counsel of record for _____, request access to proprietary information in the administrative record for participation in the subject panel review and any related extraordinary challenge proceeding.

DECLARATION

I hereby declare that:

- (a) I ordinarily reside in Canada, the United States or Mexico;
(b) I am not a director, servant or employee, within the meaning of subsection 45(4) of the Canadian International Trade Tribunal Act, of any participant in this panel review/extraordinary challenge proceeding or of any other person who would gain competitive advantage through knowledge of the proprietary information sought in this Disclosure Undertaking;
(c) I do not participate in the competitive decision-making activity for any of the participants in this

panel review/extraordinary challenge proceeding or for any other person who would gain competitive advantage through knowledge of the proprietary information sought in this Disclosure Undertaking. For the purposes of this paragraph, competitive decision-making activity includes advice on production, sales, operations or investments;

(d) I do not currently intend to enter into any of the relationships described in paragraphs (b) and (c) within 12 months after the publication of the final decision in the subject panel review or, if appropriate, extraordinary challenge proceeding;

(e) I have read and understand section 77.034 of the *Special Import Measures Act* under which every person who contravenes or fails to comply with a Disclosure Undertaking is liable, if found guilty of an offence punishable on summary conviction, to a fine not exceeding one hundred thousand dollars and, if found guilty of an indictable offence, to a fine not exceeding one million dollars; and

(f) I am aware that every person who contravenes or fails to comply with a Disclosure Undertaking may be subject to sanctions in the United States in accordance with section 777(f) of the *Tariff Act of 1930*, as amended, or in Mexico in accordance with article 93 of the *Ley de Comercio Exterior*.

UNDERTAKING

I hereby undertake:

(a) to use the information disclosed under the terms and conditions of this Undertaking exclusively for duties performed in respect of the subject panel review and any related extraordinary challenge proceeding;

(b) not to divulge information disclosed under the terms and conditions of this Undertaking, except to a person granted access to such information under a Disclosure Order of the Canadian International Trade Tribunal or to personnel of the Canadian International Trade Tribunal;

(c) not to reproduce documents and materials containing information disclosed under the terms and conditions of this Undertaking without prior written approval by the Canadian International Trade Tribunal;

(d) to keep confidential and to protect the information disclosed under the terms and conditions of this Undertaking in the following manner:

(i) except as provided in subparagraph (iv), I will keep in my office, at all times, the complete set of documents and materials containing information disclosed under the terms and conditions of this Undertaking,

(ii) I will maintain a log and make it available to the Canadian International Trade Tribunal upon request, indicating, for each authorized copy of the documents and materials containing information disclosed under the terms and conditions of this Undertaking, an identification number from the index, the name of the person who obtained the copy from me, the date on which the person received such copy and the date on which such copy was returned to me,

(iii) I will store all documents and materials containing information disclosed under the terms and conditions of this Undertaking in a locked vault, safe or other secure storage device when these documents and materials are not being used, and

(iv) I will not take any document or material containing information disclosed under the terms and conditions of this Undertaking from my business premises, except, under lock or seal, for panel or

committee hearings and for return to the Canadian Secretary in accordance with paragraph (e) below;

(e) to return to the Canadian Secretary all documents and materials containing information disclosed under the terms and conditions of this Undertaking, including notes, charts and memoranda based on any such information, and the log described in subparagraph (d)(ii), or to destroy such documents, materials and log and to file with the Canadian Secretary a certificate of destruction pertaining to such destroyed documents, materials and log,

(i) within 10 days of the publication of a Notice of Completion of Panel Review for the subject panel review in the Canada Gazette and the Federal Register or the Diario Oficial de la Federación, or

(ii) within 10 days of the publication of a Notice of Completion of Extraordinary Challenge in the Canada Gazette and the Federal Register or the Diario Oficial de la Federación;

(f) if the participant that I represent files a Notice of Change of Counsel of Record,

(i) to return to the Canadian Secretary all documents and materials containing information disclosed under the terms and conditions of this Undertaking, including notes, charts and memoranda based on any such information and the log described in subparagraph (d)(ii),

(ii) to destroy such documents, materials and log and to file with the Canadian Secretary a certificate of destruction pertaining to such destroyed documents, materials and log, or

(iii) to entrust such documents, materials and log to the new counsel of record who is replacing me in the subject panel review or related extraordinary challenge proceeding and who has been granted access to such information under a Disclosure Order of the Canadian International Trade Tribunal,

within 10 days of the filing of such notice;

(g) to report promptly to the Canadian International Trade Tribunal and to the Canadian Secretary any violation of a Disclosure Undertaking; and

(NOTE : The examination of documents and materials in transit between Canada and the United States or between Canada and Mexico by Customs authorities will not be considered to be a violation of this Undertaking.)

(h) to inform the Canadian International Trade Tribunal immediately of any changes in the facts referred to in this Undertaking.

I intend to give access to information disclosed under the terms and conditions of this Undertaking to assistant-counsel, professionals retained by me, or under my control or direction, agents and employees, listed in Appendix A. Each of them will sign a Disclosure Undertaking and will be bound individually by the terms and conditions of that Undertaking.

DATED at _____, _____ this _____ day of _____ 20 _____

Signature of counsel of record

Name (please print)

Name of law firm or other employer of counsel of record

Service address of counsel of record

APPENDIX A

**ASSISTANT-COUNSEL, PROFESSIONALS, AGENTS AND EMPLOYEES TO BE GIVEN
ACCESS TO INFORMATION**

Following are the names and titles of assistant-counsel, professionals retained by me, or under my control or direction, agents and employees to whom I intend to give access to the information disclosed under the terms and conditions of this Disclosure Undertaking. Each of them will sign a Disclosure Undertaking and will be bound individually by the terms and conditions of that Disclosure Undertaking, if such access is granted.

Name	Title (and address if different from counsel of record's address)

Signature of counsel of record

Date (month/day/year)