

**IN THE MATTER OF AN ARBITRATION UNDER CHAPTER ELEVEN OF  
THE NORTH AMERICAN FREE TRADE AGREEMENT  
AND THE UNCITRAL ARBITRATION RULES**

BETWEEN:

**WILLIAM RALPH CLAYTON, WILLIAM RICHARD CLAYTON, DOUGLAS  
CLAYTON, DANIEL CLAYTON AND BILCON OF DELAWARE INC.**

INVESTORS

AND

**GOVERNMENT OF CANADA**

RESPONDENT

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**PROCEDURAL ORDER NO. 4**

**July 17, 2009**

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**ARBITRAL TRIBUNAL:**

Judge Bruno Simma (President)  
Professor Donald McRae  
Professor Bryan Schwartz

**WHEREAS** the Respondent, in its submission dated June 16, 2009, “challenges the Claimants’ June 12, 2009 designation of confidential information in their Notice of Arbitration (‘NOA’) and Statement of Claim (‘SOC’)”.

**WHEREAS** the Investors, in their submission of July 2, 2009, withdrew the designation of confidential information in the Notice of Arbitration and of some confidential information in the Statement of Claim, and the Respondent, in its submission dated July 7, 2009, noted that it no longer sought the intervention of the Tribunal as far as the Notice of Arbitration is concerned.

**WHEREAS** the Investors, in their submission of July 2, 2009, requested “the Tribunal’s guidance on the effect of paragraph 29 of the Confidentiality Order”.

## **THE TRIBUNAL ISSUES THE FOLLOWING PROCEDURAL ORDER:**

### **1 Confidential Information in the Statement of Claim**

- 1.1 **Information referenced in Paragraph 39(a):** The information was appropriately designated as confidential.
- 1.2 **Information referenced in Paragraph 39(b):** The information may not be designated as confidential.
- 1.3 **Information referenced in Paragraph 42(a):** The information may not be designated as confidential.
- 1.4 **Exhibit 5:**
  - 1.4.1 The address of Pamela D. Chisling was appropriately designated as confidential; the same information shall also be redacted in Exhibit 3.
  - 1.4.2 The street address and the extended zip code of Douglas Clayton, William Richard Clayton and Daniel Clayton were appropriately designated as confidential.
  - 1.4.3 The remainder of the address of Douglas Clayton, William Richard Clayton and Daniel Clayton may not be designated as confidential.

### **2 Interpretation of Procedural Order No. 2**

In light of the Investors’ withdrawal of any designation as confidential in the Notice of Arbitration, and the fact that the Respondent has not made the Statement of Claim public,

the Tribunal sees no need to provide further guidance on the interpretation of Procedural Order No. 2 at this stage.

A handwritten signature in black ink, appearing to read "Bruno Simma". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dated: July 17, 2009

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Judge Bruno Simma  
President of the Tribunal

on behalf of the Tribunal