
**IN THE MATTER OF AN ARBITRATION UNDER CHAPTER ELEVEN OF THE NORTH
AMERICAN FREE TRADE AGREEMENT AND THE 1976 UNCITRAL ARBITRATION
RULES**

between

RESOLUTE FOREST PRODUCTS INC.

Claimant

and

GOVERNMENT OF CANADA

Respondent

(PCA CASE NO. 2016-13)

PROCEDURAL ORDER NO. 2

ARBITRAL TRIBUNAL:

Judge James R. Crawford, AC (President)

Dean Ronald A. Cass

Dean Céline Lévesque

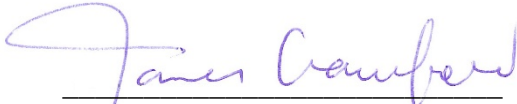
14 October 2016

1. A Disputing Party may request the production of documents from the other Disputing Party.
2. A Disputing Party's request for production shall contain:
 - 2.1 a description of each requested document sufficient to identify it, or a description in sufficient detail (including subject matter) of a narrow and specific requested category of documents that are reasonably believed to exist;
 - 2.2 a statement as to how the documents requested are relevant to the case and material to its outcome; and
 - 2.3 a statement that the documents requested are not in the possession, custody or control of the requesting Party or a statement of the reasons why it would be unreasonably burdensome for the requesting Party to produce such documents, and a statement of the reasons why the requesting Party assumes the documents requested are in the possession, custody or control of the other Party.
3. A Disputing Party shall make its request for production in the form of a Redfern Schedule comprising the following six columns:
 - (a) document request number (beginning at one);
 - (b) identification of the documents or category of documents that have been requested;
 - (c) rationale for each request providing a detailed explanation of the relevance and materiality of the requested documents;
 - (d) summary of objections by a Disputing Party to the production of the requested document(s);
 - (e) summary of replies to objections by a Disputing Party to the production of the requested document(s); and
 - (f) decision of the Arbitral Tribunal.
4. Columns (a), (b) and (c) of a Disputing Party's Redfern Schedule shall be completed at the time the Disputing Party makes its request for production. Columns (d) and (e) of a Disputing Party's Redfern Schedule shall be completed at the time the Disputing Parties exchange objections and replies to objections to the production of requested documents, as applicable. Column (f) shall be completed at the time the Tribunal issues its order on disputed requests for production, as applicable.

5. A model Redfern Schedule is attached to this Procedural Order as Annex A.
6. The Disputing Parties shall make their requests for production, objections to the production of requested documents, and replies to objections to the production of requested documents at the time(s) to be established by the Tribunal.
7. Each Disputing Party may withhold from production documents that it considers not subject to production based on a legal impediment or privilege or grounds of special political or institutional sensitivity, as set out in Article 9 of the 2010 International Bar Association Rules on the Taking of Evidence in International Arbitration (“2010 IBA Rules”). If a Disputing Party withholds documents on one of these bases, it shall submit to the other Disputing Party either: (a) a log identifying such documents (or categories of documents) and the grounds for withholding; or (b) redacted versions of such documents identifying the grounds for withholding.
8. The Disputing Parties shall attempt to resolve disputes relating to document production amongst themselves prior to submitting them for resolution to the Tribunal. A Disputing Party may refer any dispute related to document production to the Tribunal, including issues relating to the sufficiency of a log or redaction submitted under paragraph 7 or the applicability of a legal impediment or privilege claimed under paragraph 7. The Tribunal may invite further submissions by the Disputing Parties on objections to production.
9. The Tribunal shall rule on any dispute relating to document production pursuant to its authority under Articles 24(3) and 25(6) of the 1976 UNCITRAL Arbitration Rules. In doing so, the Tribunal may seek guidance from, but is not bound by, Articles 3 and 9 of the 2010 IBA Rules.
10. The production of documents under this Order shall be made electronically through a secure FTP site which can be accessed only by counsel to the Disputing Parties, in PDF format or some other similar format to which the Disputing Parties may later agree. Each individual document shall be clearly labelled with a unique identifying number. Each Disputing Party shall provide the other Disputing Party, on the date of the production, with an index of the documents that it is producing.
11. Documents produced by the Disputing Parties shall not be considered to be part of the record unless and until one of the Disputing Parties subsequently submits them in evidence to the Tribunal. In such a case, Procedural Order No. 1 establishes the procedure for the submission as exhibits of documents disclosed to the requesting Disputing Party by the other Disputing Party.
12. In addition to the above, the Tribunal may of its own motion order a Disputing Party to produce documents at any time.

Date: 14 October 2016

For the Arbitral Tribunal



Judge James R. Crawford, AC

