



Ottawa, Wednesday, January 28, 2004

Preliminary Injury Inquiry No. PI-2003-006

IN THE MATTER OF a preliminary injury inquiry, pursuant to subsection 34(2) of the *Special Import Measures Act*, concerning the alleged injurious dumping in Canada of frozen self-rising pizza originating in or exported from the United States of America;

AND IN THE MATTER OF a request from counsel for McCain Foods Limited that Professor James Brander be permitted, as an expert, access to certain confidential information on the record.

ORDER

WHEREAS, pursuant to subsection 45(3) of the *Canadian International Trade Tribunal Act*, confidential information may be disclosed by the Canadian International Trade Tribunal (the Tribunal) to experts acting under the control or direction of counsel, subject to directives from the Tribunal governing the use of such information;

WHEREAS, by order dated January 22, 2004, the Tribunal qualified Professor Brander as an expert in trade economics and ordered that certain confidential information may be disclosed to him under the control or direction of Mr. Randall J. Hofley of Stikeman Elliott LLP, in Ottawa.

WHEREAS a notice of representation (counsel) and declaration and undertaking have since been filed by Rachel V. Hutton of Stikeman Elliott LLP, in Vancouver, with a request that the confidential information be disclosed to Professor Brander under the control or direction of Ms. Hutton, in the offices of Stikeman Elliott LLP, in Vancouver.

THE TRIBUNAL ORDERS THAT:

1. Counsel may disclose to Professor Brander the confidential exhibits in the present inquiry, namely, the confidential complaint of McCain Foods Limited, the confidential case analysis of the Canada Border Services Agency and any confidential submissions to be filed by parties opposed to the complaint.
2. Professor Brander shall have access to the said confidential information at the Ottawa office of Stikeman Elliott LLP, under the direction and control of the lead counsel in this case, Mr. Randall J. Hofley, or at the Vancouver office of Stikeman Elliott LLP, under the direction and control of Ms. Rachel V. Hutton.
3. Prior to obtaining access to the said confidential information, Professor Brander shall sign the attached undertaking and acknowledgement. Counsel for McCain Foods Limited in Ottawa and Vancouver shall countersign the said document to acknowledge that Professor Brander is working under their direction and control.
4. Counsel for McCain Foods Limited shall explain the terms of this order to Professor Brander prior to disclosure of any confidential information.
5. The undertaking and acknowledgement for Professor Brander shall provide that he:
 - (a) use the specified confidential information exclusively for purposes of the subject proceeding;

- (b) not disclose, except to counsel for McCain Foods Limited and to the Tribunal in his report or testimony in this proceeding, any confidential information to which he has been given access;
- (c) not photocopy any document received that contains any confidential information;
- (d) save confidential information only on the hard drive of a stand-alone or laptop computer that is not connected to any computer network or accessible in any manner through another computer or other means; erase, at the completion of these proceedings, all confidential information saved on the stand-alone or laptop computer; and file with the Secretary of the Tribunal a certificate confirming the destruction of the said information; and
- (e) return to counsel for McCain Foods Limited, at the end of the proceeding, all confidential information, including any notes, charts, tables and memoranda created based on confidential information.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Patricia M. Close
Patricia M. Close
Member

Meriel V.M. Bradford
Meriel V.M. Bradford
Member

Michel P. Granger
Michel P. Granger
Secretary

CANADIAN INTERNATIONAL TRADE TRIBUNAL
UNDERTAKING AND ACKNOWLEDGEMENT

IN THE MATTER OF a preliminary injury inquiry, pursuant to subsection 34(2) of the *Special Import Measures Act*, concerning the alleged injurious dumping in Canada of frozen self-rising pizza originating in or exported from the United States of America.

WHEREAS the Tribunal issued orders dated January 22, 2004, and January 28, 2004, directing that the person to whom disclosure is made shall not disclose any of the confidential information to any person and shall not use the confidential information for any purpose, other than in and for the purpose of this preliminary injury inquiry.

UNDERTAKING

I Professor James Brander undertake:

- (a) to use the information disclosed under the conditions of this undertaking exclusively for purposes of the subject proceeding;
- (b) not to disclose, except to counsel for McCain Foods Limited and to the Tribunal in my report or testimony in this proceeding, any confidential information to which I have been given access;
- (c) not to photocopy any document received that contains any confidential information;
- (d) to keep confidential the information disclosed under the conditions of this undertaking;
- (e) to save confidential information only on the hard drive of a stand-alone or laptop computer that is not connected to any computer network or accessible in any manner through another computer or other means; erase, at the completion of these proceedings, all confidential information saved on the stand-alone or laptop computer; and file with the Secretary of the Tribunal a certificate confirming the destruction of the said information; and
- (f) to return to counsel for McCain Foods Limited any notes, charts, tables and memoranda created based on that confidential information at the end of our participation in this proceeding.

ACKNOWLEDGEMENT

I hereby acknowledge that disclosure by me of some or all of the confidential information to which I have been given access could result in economic harm to McCain Foods Limited and any other party to this proceeding.

Signature: _____

Name: **Professor James Brander** _____

Address: _____

Fax: _____

E-mail: _____

Dated at _____ this _____ day of _____ 2004.

Countersigned by counsel for McCain Foods Limited – Ottawa office

Signature: _____

Name: **Mr. Randall J. Hofley** _____

Address: **Stikeman Elliott LLP** _____

Fax: _____

E-mail: _____

Dated at _____ this _____ day of _____ 2004.

Countersigned by counsel for McCain Foods Limited – Vancouver office

Signature: _____

Name: **Ms. Rachel V. Hutton** _____

Address: **Stikeman Elliott LLP** _____

Fax: _____

E-mail: _____

Dated at _____ this _____ day of _____ 2004.