



U.S. International Trade Commission
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Nondisclosure Confidentiality Agreement for Authorized Representatives of Parties (Outside Counsel)

– to be signed by each authorized representative of a party
(outside counsel) that will participate in mediation –

I, _____, am an authorized representative of a party (outside counsel) in Investigation No. 337-TA-_____, intending to be legally bound, consent to the terms in this Agreement in consideration of my being granted conditional access to certain information, including all communications (written or oral) provided by the U.S. International Trade Commission (“Commission”) and the private parties to this investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, including all confidential business information provided in mediation.

1. I will not disclose communications made by other private parties in a joint session, unless otherwise required by law.
2. All forms of communication (written or oral) are to be protected.
3. Communications of information that is otherwise public may be disclosed.
4. I will not make a verbatim recording of the mediation, such as an audiotape, videotape or stenographic record.
5. I, my firm, and any client that I represent in this investigation agree to hold the mediator harmless from any claims or actions associated with the mediation.
6. The Commission investigative attorney may participate as a party to the investigation upon the request of the parties. Otherwise, the Commission investigative attorney will not have knowledge of the contents of the mediation proceedings, except that he or she may review any settlement agreement that arises from successful mediation before advising the presiding administrative law judge about whether a settlement is in the public interest.
7. I agree to comply with the provisions of the Alternative Dispute Resolution Act, 5 U.S.C. § 574, the Federal Rules of Evidence, the Administrative Procedures Act, 5 U.S.C. § 551, 19 U.S.C. § 1337(n), and other applicable laws, as well as the terms of this agreement. Outside counsel who have subscribed to the protective order of the presiding administrative law judge will comply with any obligation under that order not to share confidential business information with parties under representation, with executives or employees of parties under representation, or with counsel who are not under the protective order of the presiding administrative law judge.
8. If I am served with a subpoena or other demand, I will promptly advise the General Counsel of the Commission of such service or demand, the nature of the documents or information sought, and all relevant facts or circumstances. I am aware that the Chairman of the Commission may assert privileges for the information described above. See *Touchy v. Regan*, 340 U.S. 462 (1951). The General Counsel will defend the assertion of privilege on behalf of the mediator and the Commission. If a court rules that I must comply with a demand made upon me, I will respectfully ask the court to wait for the General Counsel to submit an explanation to the court regarding the nature of the privilege being asserted.

Signature

Title

Date