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AN ARBITRATION UNDER CHAPTER 11 OF
THE NORTH AMERICAN FREE TRADE AGREEMENT

BETWEEN

UNITED PARCEL SERVICE OF AMERICA INC

AND

GOVERNMENT OF CANADA

**DIRECTION OF THE TRIBUNAL
CONCERNING DOCUMENT PRODUCTION**

THE TRIBUNAL:

Dean Ronald A Cass, Arbitrator
L Yves Fortier CC, QC, Arbitrator
Justice Kenneth Keith, President

The Tribunal has considered the submissions of the parties concerning document production and directs that

1. the parties are to begin to produce documents (other than those in respect of which there is a disputed refusal) at once (see para B6 of the Procedural Directions and Order of 4 April 2003), and the production of documents is to be completed by 1 October 2003;
2. answers to interrogatories are to be completed by 1 October 2003;
3. Canada is not to refuse to produce documents because they allegedly raise jurisdictional issues; the test is whether the document is relevant to an allegation in the Revised Amended Statement of Claim or the Statement of Defence; and document production is to proceed on that basis;
4. although the Tribunal has divided the arbitration, leaving any issues of damages for the later stage, UPS will have to demonstrate in terms of article 1116, that it has incurred loss or damage;
5. relevant documents are to be produced irrespective of whether they contain information relating to third parties; the confidentiality order ensures the appropriate protection of such information;
6. on the basis of the submissions which the parties made on 16 May and 13 June 2003, the Tribunal will rule on the parties' refusals to produce documents;
7. it reserves the power to determine any further aspect of document production and related matters.



For the Tribunal
1 August 2003