

4. Consultation

Either Party may request consultations when it believes that an antitrust investigation, proceeding (including for the purposes of this paragraph a private suit pursuant to the antitrust laws of either Party), business review, advisory opinion or compliance procedure, or action relating to an antitrust investigation or proceeding, is likely to affect its significant national interests or require the seeking of information from its territory. Such requests will be made and honoured promptly.

5. Notification and Consultation where One Party Expects to Take Action to Limit the Other Party's Access to Information

If one Party seeks to obtain information located within the territory of the other in furtherance of an antitrust investigation or inquiry, the other Party will not normally discourage a response. If a Party finds that access to information within its territory by the investigating Party is contrary to a significant national interest, any decision or consequential action relating to access by the investigating Party to such information will normally be made only after notification and consultations within the framework of, and after taking account of the purposes of this Understanding. Where, because of an exceptional circumstance, immediate action must be taken, an opportunity for consultation will be provided immediately thereafter.

6. Consideration of the Other Party's Significant Interest

Each Party will give careful consideration to the significant national interests of the other at all stages of an antitrust investigation, inquiry or prosecution. The significant national interests of a Party may be general or specific in nature depending on the activity in question and may vary in significance according to the importance of the goals of the relevant government policies and the extent to which achievement of those goals may be impaired by acceding to the expressed interests of the other Party. While a significant national interest may exist even in the absence of any governmental connection with the activity in question, it is recognized that such interests would normally be reflected in antecedent laws, decisions or statements of policy by the competent authorities.