



# Public Inquiry Into Foreign Interference in Federal Electoral Processes and Democratic Institutions

## DRAFT RULES OF PRACTICE AND PROCEDURE

### **Introduction**

On September 10, 2023, the Government of Canada adopted Order in Council P.C. 2023-882, establishing Terms of Reference for the Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions (the “Commission” or the “Inquiry”).

The Commission will examine any interference by China, Russia, and other foreign states or non-state actors, and assess any repercussions on the integrity of the 43rd and 44th general elections. The Commission will also consider how information regarding foreign interference was circulated and actioned, and examine the capacity of the various actors and components of the state to detect, prevent, and counter foreign interference.

At the end of its work, the Commission will make recommendations for better protecting federal democratic processes and institutions from foreign interference.

The Commission will also conduct public hearings at the start of its mandate to identify the challenges, limitations, and potential adverse impacts associated with the disclosure of classified national security information and intelligence to the public to foster transparency and enhancing public awareness and understanding.

The Terms of Reference direct the Commissioner to submit, on specified dates, public and classified reports to the Governor in Council regarding the issues identified in the Terms of Reference.

Subject to the Terms of Reference and the *Inquiries Act*, R.S.C., 1985, cI-11 (the “Act”), the Commission has the power to control its own processes and make rules governing its practice and procedure as necessary to fulfill its mandate. The Terms of Reference authorize the Commissioner to adopt any procedures and methods she considers expedient for the proper and efficient conduct of the Inquiry. The Terms of Reference direct the Commissioner to prevent the disclosure of information that could be injurious to the critical interests of Canada or its allies, national defence, or national security.

The Commission intends to hold public hearings in Ottawa in the winter and fall of 2024 (the “Public Hearings”). To promote the transparency of the Commission’s work, the Commission will receive as much evidence in the Public Hearings as possible, while respecting legal obligations related to national and personal security that could require the presentation of evidence in a confidential forum.

These Rules of Practice and Procedure (the “Rules”) apply to the conduct of the Inquiry and are designed to guide the Commission’s public proceedings and the fulfilment of the Commission’s mandate. The Commissioner may adopt different or additional rules that apply only to specific hearings. The Commissioner will publish any such rules on the Commission website.

The Rules will be interpreted, applied, or varied in a reasonable manner such that the Commission can complete its mandate in a timely manner, consistent with the deadlines in the Terms of

Reference.

## **RULES OF PRACTICE AND PROCEDURE**

### **General**

1. These Rules apply to the Commission, established under the Act and pursuant to the Terms of Reference.
2. Subject to the Terms of Reference and the Act, the conduct of and procedures to be followed at the Inquiry are under the control and at the discretion of the Honourable Marie-Josée Hogue (the “Commissioner”).
3. The Commissioner may amend, add, supplement, or dispense with the application of these Rules as she deems necessary to ensure that the Inquiry is complete, fair and timely, and that the resources of the Commission and the parties are allocated in a manner proportionate to the objectives of the Commission and the recognized interests of the Participants and the public.
4. The Commissioner may make such orders or give such directions as she considers proper to maintain order and to prevent the abuse of the Commission’s process.
5. In these Rules:
  - “holiday” refers to Saturday, Sunday, New Year’s Day, Good Friday, Easter Monday; Christmas Day; Victoria Day; Canada Day; the first Monday in September, designated Labour Day; National Day for Truth and Reconciliation, which is observed on September 30; Remembrance Day; and any day appointed by proclamation to be observed as a day of general prayer or mourning or day of public rejoicing or thanksgiving;
  - “persons” refers to individuals, organizations, governments, agencies, institutions, associations, or any other entity;
  - “Participant” refers to a person who has been granted standing to participate in the Commission pursuant to the Rules of Standing and Funding; and

“documents” is intended to have a broad meaning, and refers to records made or stored in physical or electronic form, including written, electronic, e-mail, text message, instant messaging (e.g. iMessage, BBM, What’s App, Signal), social media, voice mail, audio recordings, video recordings, film, digital reproduction, microfiche, photography, and includes correspondence, reports, analysis, opinions, memoranda, notes, data, analysis, minutes, submissions, briefing materials, training materials, submissions, books of account, or any other data and information recorded or shared by means of any device.
6. In the computation of time under these Rules, except where a contrary intention appears,
  - a. where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even if the words “at least” are used;

- b. where a period of seven days or less is prescribed, holidays shall not be counted; and
  - c. where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.
7. The Commissioner has the discretion to determine what constitutes “reasonable notice” or “at the earliest opportunity” in all of the circumstances.
  8. All Participants and their legal representatives are bound by the Rules of Practice and Procedure. If issues of non-compliance cannot be resolved by consultation with Commission counsel, they may be raised with the Commissioner.
  9. Witnesses and attendees, including members of the media, are bound by the Rules of Practice and Procedure, to the extent applicable.
  10. The Commissioner shall deal with a breach of these Rules as she sees fit including, but not restricted to, imposing restrictions on further participation in or attendance at (including exclusion from) the hearings by any Participant, legal representative, individual, or member of the media, and revoking the standing of a Participant.

### **Guiding Principles**

11. The Commission conducts its work in accordance with five guiding principles (the “Guiding Principles”):
  - **Transparency:** The Commission proceedings and processes must be as open and available to the public as is reasonably possible, consistent with the requirements of national and personal security and other applicable confidentiality and privileges;
  - **Fairness:** The Commission will work to ensure fairness to the public and the participants throughout the process. The Commission will take into account and balance the interests of the public (including the right to be informed), the interests of individuals, and the interests of national security. The Commission will afford fair treatment to all those involved or implicated;
  - **Thoroughness:** The Commission will examine the relevant issues with care so that there can be no doubt that the questions raised by the Commission’s mandate are explored and answered as thoroughly as possible within the timeframe allocated;
  - **Expediency:** The Commission is operating under a tight schedule and must conduct its work accordingly; and
  - **Proportionality:** The Commission will allocate the limited investigative and hearing time available in proportion to the importance and relevance of matters to the Commission’s mandate, and the relative contributions that the Commissioner determines each Participant is able to make to an issue, with the objective of ensuring that the time available to the Commission is directed

to properly fulfilling the Commission's mandate.

12. Participants and their legal representatives, as well as those otherwise taking part in the Public Hearings, shall conduct themselves and discharge their responsibilities under the Rules in accordance with the Guiding Principles.

### **Participants**

13. The Commission may designate several categories of Participants at the Inquiry. The degree of participatory rights for the categories of Participants shall be set out in decisions of the Commissioner. All references to the rights and obligations of Participants in these rules are subject to the degree of participatory rights afforded to the categories of Participants by the Commissioner.

### **Investigation**

14. The Inquiry will start with a preliminary investigation by Commission counsel. The goal of the investigation is, in part, to identify the core or background facts that could form the basis of Overview Reports or Institutional Reports (as described below), to identify witnesses, and to ensure that hearing time is used efficiently.
15. The investigation will consist primarily of document review, engagement with interested persons and the public, and interviews by Commission counsel.
16. Subject to applicable privileges and immunities, all Participants and persons shall cooperate fully with the Commission and shall make available all documents and witnesses relevant to the mandate of the Commission.

### **Document Production**

17. Subject to Rules 16 and 20, within 12 days of being granted standing or within the timeframe specified in a summons, any Participant or recipient of a summons issued by the Commission must produce to the Commission copies of all documents in their possession or under their control relevant to the subject-matter of the Inquiry.
18. The Commission may, at its discretion, request from a Participant or require from a recipient of a summons only certain categories or types of documents.
19. The Commission may, at its discretion, require a Participant or recipient of a summons to first provide a list of categories or types of documents in that person's possession or control relevant to the subject-matter of the Inquiry before producing any documents. When the Commission makes such a request, the Participant or summons recipient shall produce the requested list within 5 days, unless otherwise indicated.
20. At the earliest opportunity, each Participant or summons recipient must certify in writing that it has complied with its document production obligations, as outlined in these Rules.

If the recipient is an organization, the person with authority to certify on behalf of the organization must certify in writing that the organization has complied with its documentary production obligations, as outlined in these Rules.

21. Document production is an ongoing obligation. If additional documents are discovered or obtained after initial production, any new documents must be disclosed as soon as possible after they are discovered or obtained.
22. The Commission may, at any time and at its discretion, request further disclosure from any Participant or summons recipient and that request shall be complied with within the time indicated in the request or summons.
23. Participants and summons recipients shall provide relevant documents in the format and manner set out in the Document Management Protocol.
24. Production to the Commission will not be treated as a waiver of any claim to privilege.
25. Privileges and immunities under the *Canada Evidence Act* are subject to provisions addressed later in these Rules. In all other instances in which a Participant or summons recipient objects to the production of any document, or part thereof, or to disclosure to a Participant of any document, or part thereof, on the grounds of privilege, the following procedures will apply:
  - a. The Participant or summons recipient shall deliver to Commission counsel a list setting out pertinent details of the document(s), or part thereof, over which claims for privilege are asserted. This shall include the nature of the privilege, the date, author, recipient(s) and a brief description of the document(s), and may include additional material, such as an affidavit, to support the claims;
  - b. Commission counsel shall review the list and determine whether they intend to seek access to the information over which privilege is claimed;
  - c. If Commission counsel are not prepared to recommend to the Commissioner that she accept the claim for privilege, the list and any further material filed by the Participant or summons recipient, including submissions, shall, if the Participant claiming privilege consents, be submitted forthwith, together with written submissions on behalf of Commission counsel, to the Commissioner or, at the Commissioner's option, to another adjudicator designated by the Commissioner, for determination. If the Commissioner or designated adjudicator is unable to decide based on the record before them, they may require a copy of the disputed document(s) for inspection; and
  - d. If the claim for privilege is dismissed, the document(s) shall be produced to Commission counsel forthwith and, subject to relevance and any conditions imposed by the Commissioner or designated adjudicator, may be used in the Commissioner's discretion by the Commission and Participants in the inquiry.
26. Except as agreed with Commission counsel, and subject to applicable privileges, documents shall be produced to the Commission in unredacted form. Persons producing documents will be given an opportunity to redact irrelevant personal information or identifiers before the Commission shares those documents with Participants or the public.

27. Where a person producing a document has redacted personal information pursuant to Rule 26 and Commission counsel disagree that the information is irrelevant personal information, the following procedures will apply:
- a. Commission counsel shall identify for the producing party any redaction or categories of redactions that Commission counsel do not accept and request the producing party to produce a version of the document without that redaction or categories of redactions. Commission counsel may also explain the relevance of the redacted information;
  - b. Within two days, the person producing the document shall either comply with the request of Commission counsel by producing a new version of the document with the redactions identified by Commission counsel lifted or inform Commission counsel that they intend to challenge Commission Counsel's request before the Commissioner;
  - c. A Participant seeking to challenge an assessment of Commission counsel shall, within three days of informing Commission counsel, bring an application to the Commissioner for an order under these Rules to redact irrelevant personal information in the document. The requirement under these Rules for other Participants to be provided with copies of applications and to have the right to respond do not apply to an application under this rule;
  - d. The application shall include both a redacted and unredacted version of the document at issue and, where the producing Participant is aware of it, the contact information of the person whose personal information is implicated by the redactions, or their counsel;
  - e. The Commissioner may notify a third-party of the application and permit them to file submissions;
  - f. The application shall be heard in writing unless the Commissioner directs otherwise;
  - g. With the agreement of the producing party, the application may be heard and determined by another adjudicator designated by the Commissioner;
28. Documents received from a Participant or any other organization or individual shall be treated as confidential by the Commission unless and until they are made part of the public record or the Commissioner otherwise declares. This does not preclude Commission counsel from referring to or using a document, redacted for applicable privileges and immunities, while interviewing a person as part of the investigation.
29. Legal representatives of the Participants and witnesses will be provided with relevant documents and information, including interview summaries and statements of anticipated evidence, only after signing the written Confidentiality Undertaking at Appendix "A" to these Rules. Production may be subject to redaction for applicable privileges and irrelevant personal information.
30. Before providing their clients with documents or information that has been obtained through the Commission, legal representatives must obtain from any recipient of the documents or information and remit to the Commission the written Confidentiality Undertaking at Appendix "B" and ensure that the recipients understand their obligations under these Rules.

31. Unrepresented participants and witnesses will be provided with documents and information, including interview summaries and statements of anticipated evidence, only after signing the written Confidentiality Undertaking at Appendix “C” to these Rules. Production may be subject to redaction for applicable privileges and irrelevant personal information.
32. Failure to abide by a Confidentiality Undertaking will be a serious breach of an order of the Commission and of these Rules, and may result in such sanctions and remedial orders as the Commissioner considers appropriate, including the revocation of a Participant’s standing and the striking of witness’s evidence.
33. The confidentiality undertakings no longer apply to any document or information after the document or information has become an exhibit.

### **Witness Interviews**

34. Commission counsel may interview persons who have information or documents relevant to the subject-matter of the Inquiry. Persons who are interviewed are entitled, but not required, to have a legal representative present during the interview. Persons other than legal representatives may only attend interviews with the express advance permission of Commission counsel.
35. Persons being interviewed by the Commission, and all persons attending such interviews, including legal representatives, will be required to enter into the written Confidentiality Undertaking at Appendix “D” to these Rules before the interview commences.

### **Public Hearings**

36. Public Hearings will be convened in Ottawa or elsewhere as the Commissioner may determine. Hearings may be exclusively in-person, exclusively virtual, or in hybrid forms.
37. The Commissioner will set the dates, hours, and place of the Public Hearings.
38. The Commissioner may receive any evidence or information that she considers reliable, appropriate, and helpful in fulfilling her mandate regardless of whether such evidence or information would be admissible in a court of law. The strict rules of evidence will not apply to determine the admissibility of evidence at the Inquiry. The Commissioner may nevertheless decline to receive evidence or information if it is considered unreliable or otherwise inappropriate.
39. The Commissioner may receive evidence from representative witnesses on behalf of institutions. A representative witness should be a senior official of an institution, and/or an expert in the subject area, designated to appear on behalf of the institution.
40. Participants may propose witnesses or experts to be called.

## **Overview Reports**

41. Commission counsel may prepare Overview Reports, which may contain summaries of core or background facts. Overview Reports may include summaries or reproductions of a wide range of documents, including relevant statutory or regulatory provisions and frameworks, existing policies, procedures and practices, organizational charts and descriptions, chronologies, and any other information or documents within the definition of these Rules.
42. Commission counsel will provide the Participants in advance of the filing of Overview Reports as evidence with an opportunity to comment within a specified timeframe on the accuracy of the Overview Reports. Commission counsel may modify the Overview Reports in response.
43. Final Overview Reports can be entered into evidence and filed on the record of the proceeding without the necessity of being introduced through the oral testimony of a witness. Once filed, Overview Reports and the source documents referred to therein will constitute information and evidence available for the consideration of the Commission. Overview Reports may be used to assist in identifying the issues that are relevant to the Inquiry, to make findings of fact, and to enable recommendations to be made by the Commission.

## **Witness Evidence**

44. Witnesses who testify will give their evidence at a hearing under oath or upon affirmation, and may swear or affirm on an eagle feather.
45. Commission counsel may issue and serve a subpoena or summons upon a witness whose evidence is sought. Witnesses may be called to testify more than once.
46. Commission counsel and a witness or their legal representative may prepare an affidavit of the witness's evidence, which affidavit may include the witness's answers to written questions from Commission counsel. At the Commissioner's discretion, the affidavit may be admitted into evidence in place of part or all of the witness's oral testimony.
47. At the Commissioner's discretion, a summary of the witness's interview, or, if accepted by the witness as accurate, a statement of the witness's anticipated evidence, may be admitted into evidence in addition to or in lieu of that witness's oral evidence.
48. At the request of Commission counsel, Participants may prepare Institutional Reports describing the Participant and providing information about the Participant's involvement in matters considered to be relevant to the issues under consideration by the Commission. Institutional Reports may be admitted into evidence if adopted by a representative witness as accurate or if admitted into evidence in accordance with the Commission's procedures for admitting documents.



49. Witnesses who are not represented by a legal representative of a Participant are entitled to have their own legal representative present while they testify. The legal representative for a witness will have standing for the purpose of that witness's testimony to make any objections considered appropriate and for other purposes set out in these Rules.
50. If special arrangements are sought by a witness to facilitate their testimony, including the need for an interpreter other than in one of Canada's official languages, a request for accommodation shall be made to the Commission sufficiently in advance of the witness's scheduled appearance to reasonably facilitate such requests. While the Commission will make reasonable efforts to accommodate such requests, the Commissioner retains the ultimate discretion as to whether, and to what extent, such requests will be accommodated.

### **Rules of Examination**

51. In the ordinary course, Commission counsel will call and question witnesses who testify at the Inquiry.
52. The order of examination in the ordinary course will be as follows:
  - a. Commission counsel will lead the evidence of the witness. Except as otherwise directed by the Commissioner, Commission counsel are entitled to ask both leading and non-leading questions;
  - b. Participants will then have an opportunity to cross-examine the witness to the extent of their interest. The order of cross-examination and the time available to each Party for cross-examination will be determined by the Commissioner. Participants may propose variations on the Commissioner's directions regarding order and the allocation of the available time among the Participants;
  - c. After cross-examinations, the legal representative for a witness may then examine the witness. Except as otherwise directed by the Commissioner, the legal representative for the witness may only ask non-leading questions;
  - d. Commission counsel will have the right to re-examine; and
  - e. The Commissioner is permitted to ask questions of any witness at any time, including during the examination of any witness or after cross-examinations are complete, to clarify a witness's answers or otherwise ensure the thoroughness of the inquiry. If the questions raise important new issues or information not otherwise known or reasonably anticipated, the Commissioner may, at her discretion, and taking into account the Guiding Principles, permit Commission counsel and some or all of the Parties to question the witness on the new information or issue brought out by the Commissioner's questioning.
53. After a witness has been sworn or affirmed at the commencement of giving evidence, no legal representative may speak to a witness about their evidence until the witness's evidence is complete, except with the permission of the Commissioner. However, Commission counsel may speak to a witness after cross-examination and before any re-examination.

54. Subject to the Commissioner's discretion, Commission counsel may call witnesses, whether on factual or policy issues, in panels, if doing so would assist the Commissioner in making relevant findings of fact or policy recommendations in an expeditious manner.

### **Use of Documents at Hearings**

55. In advance of the testimony of a witness, Commission counsel shall, with reasonable notice, provide the Participants a list of the documents associated with the witness's anticipated evidence in chief.
56. At the earliest opportunity, Participants shall provide Commission counsel with any documents they intend to file as exhibits or otherwise refer to during the hearings, and in any event shall provide such documents to Commission counsel no later than two days before the document will be referred to or filed, other than those documents for which notice has previously been provided pursuant to Rule 65.
57. At least two days before the commencement of a witness's testimony, or within such other period as the Commissioner directs, Participants who intend to cross-examine a witness shall provide the Commission and all Participants with a list of the documents that will be used in the cross-examination, together with copies of any such documents not already provided to the Commission and Participants.
58. Neither Participants nor Commission counsel will be entitled to cross-examine a witness on any "will-say statement" (anticipated evidence statement or witness interview summary) that has been provided, except with leave of the Commissioner.
59. The Commissioner may grant the legal representative for a Party or witness leave to introduce a document to a witness at any point during the hearing upon such terms as are just and fair.
60. Commission counsel may introduce any document to a witness at any point during the hearing without leave.

### **Applications**

61. A person may apply to the Commissioner for an Order by:
- a. Preparing an application in writing;
  - b. Attaching to the application any supporting materials; and
  - c. Delivering the application and supporting materials to the Commission by email at [Participants@pifi-epie.gc.ca](mailto:Participants@pifi-epie.gc.ca).
62. Unless the Commissioner otherwise directs, and subject to such privileges or confidentiality as might apply, the Commission shall deliver the application and supporting materials to each other Participant.

63. Participants are entitled to respond to an application if their grant of standing identifies them as having an interest in the subject matter of the application.
64. The Commissioner will determine the schedule for the filing of material and submissions on the application. Applications will be dealt with in writing unless the Commissioner directs otherwise, in which case the procedure and timing for oral submissions will be established by the Commissioner.
65. All application materials shall be served by email. If a Participant has a legal representative, service on the Participant shall be by email to its legal representative. If a Participant does not have a legal representative, service on the Participant shall be by email to the Participant's designated contact person.

### **Privileges and Immunities under the *Canada Evidence Act***

In this section, "Government" means the Government of Canada and "Attorney General" means the Attorney General of Canada

#### **Cabinet Confidences**

66. Where the Government asserts that information or documents (or portions thereof) constitute a confidence of the King's Privy Council for Canada, the information or documents (or portions thereof) need not be produced or may be produced with redactions. If the Commission or Commission counsel disputes a redaction or a claim of Cabinet confidence, Commission Counsel shall advise the Government of the disputed claim. The Government shall then, within 7 days, reassess the document(s) or portion(s) of the document(s) listed and either issue a Certificate under section 39 of the *Canada Evidence Act* in respect of the information or release the information. Following the issuance of a certificate, the process set out in section 39 of the *Canada Evidence Act* shall apply to the information so certified.

#### **National Security Confidentiality and Specified Public Interest Immunity**

67. This section of the Rules addresses issues relating to the collection and disclosure by the Commission of information, the disclosure of which the Government alleges would be injurious to international relations, national defence, or national security within the meaning of section 38 of the *Canada Evidence Act* ("National Security Confidentiality" or "NSC"), or that the Government alleges should not be disclosed on grounds of a specified public interest under section 37 of the *Canada Evidence Act* ("Specified Public Interest Immunity" or "SPII").

#### *Production of Documents Raising Issues of NSC or SPII*

68. Without prejudice to claims of NSC or SPII, Government Participants or recipients of a summons or request for documents shall provide to the Commission a copy of all relevant documents without deletions or redactions, regardless of any NSC or SPII claims asserted,

or to be asserted, by the Government.

69. In advance of the hearings, Commission counsel will identify within the material provided by the Government, the documents and information it anticipates entering into evidence or disclosing to the Participants.
70. With respect to the documents identified by Commission counsel pursuant to Rule 74, the Government shall identify the specific documents or portions of documents the Government believes are subject to NSC or SPII and shall provide an explanation for any such assertions.
71. The Commission expects the Government to take a considered, proportionate, and reasonable approach in making assertions of NSC and SPII, consistent with the public interest in a transparent and thorough review of the matters described in the Terms of Reference.
72. Commission counsel may provide the Government with proposed reconsideration requests in respect of the assertions of NSC or SPII to ensure that there is a sufficient body of publicly available evidence to permit meaningful public hearings in relation to the issues relevant to the Commission's mandate.
73. If a request for reconsideration of NSC or SPII redactions is made by Commission counsel, the Government will have 3 days to reassess its position and respond to the request.
74. The Commission and the Government may produce an agreed disclosable summary of the information in respect of which an NSC or SPII claim has been made. Commission counsel may prepare a disclosable summary for the consideration of the Government or request that the Government provide a disclosable summary of specified information. If Commission counsel provides the Government with a proposed disclosable summary for consideration, the Government shall, within 5 days, reply either by concurring in the summary or by identifying and proposing an alternative disclosable summary. If Commission counsel requests that the Government prepare a disclosable summary of the information in question, the Government shall provide a proposal for the consideration of Commission counsel within 5 days.
75. The Commission will retain copies of the original, unredacted, version of the Government documents. Redacted versions and agreed summaries of the Government documents will be provided to the Participants and used at the public hearings.

#### *In Camera/Ex Parte Hearings*

76. When the information or evidence to be presented to the Commission is asserted by the Government to be subject to NSC or SPII, the Commission shall receive the information or evidence in a hearing that is closed to the public and the Participants other than the Government.

77. The Commissioner will issue to the Participants and the public a summary of the matters considered in any *in camera*, *ex parte* proceedings, to the extent that this is practicable and can be done without disclosing information protected by valid claims of NSC and SPII.

*NSC and SPII Information in the Commissioner's Report*

78. Before submitting to the Governor in Council a report intended to be disclosed to the public, the Commissioner will provide the Government an opportunity to review the report for the sole purpose of identifying information that may be subject to NSC and SPII. If agreement on a version of the report suitable for disclosure to the public is not reached, the Commissioner will provide the Governor in Council with the report that she considers appropriate.

**Personal Security and Other Exceptional and Compelling Interests of Witnesses and Others**

79. A witness or potential witness may apply in confidence to the Commissioner for a direction that some or all the witness's evidence be received other than in a manner fully accessible to the Participants and the public.
80. On consideration of an application pursuant to Rule 79, the Commissioner may, if satisfied that exceptional measures are appropriate:
- a. Direct or permit the redaction of relevant personal information from otherwise public documents;
  - b. Direct that certain information be subject to a non-publication order, although otherwise contained in public documents;
  - c. Direct the extent to which such information should be referred to in testimony;
  - d. Direct that a witness not be identified in the public records and transcripts of the hearing except by non-identifying initials, and that the public transcripts and public documents be redacted to exclude any identifying details;
  - e. Permit a witness to swear an oath or affirm to tell the truth using non-identifying initials;
  - f. Use non-identifying initials and exclude any identifying details in her report;
  - g. Make directions to receive the evidence of a witness in the absence of the public and any or all Participants, including the Government, and to disclose only so much of the evidence of or pertaining to the witness as the Commissioner determines to be appropriate;
  - h. Issue to the Participants and the public such summary of the evidence of the witness as is possible while respecting the considerations that resulted in the exceptional measures by which the Commission received the evidence; and
  - i. Make any other order or directions in her discretion.
81. If the Commissioner has issued directions to protect the identify of a witness, no photographic or other representation of the witness that might lead to his or her identification shall be made at any time and there shall be no publication of information that might lead to the identification of the witness.

82. All media representatives shall be bound by the rules respecting personal confidentiality as set out herein. A breach of these rules by a media representative shall be dealt with by the Commissioner as she sees fit.

### **Access to Evidence**

83. All evidence shall be categorized and marked P for public proceedings and C for *in camera* proceedings.
84. Unless the Commissioner orders otherwise, a copy of the P transcript of evidence, a list of P exhibits of the public proceedings and a list of the C proceedings, subject to NSC, SPII and to any personal confidentiality orders, will be available on the Commission website.
85. Only those persons authorized by the Commission, in writing, shall have access to C transcripts and exhibits.

**APPENDIX “A”**

**Confidentiality Undertaking for Legal Representatives to Participants, Potential Witnesses and Experts in the Commission on Foreign Interference**

For the purpose of this Undertaking, the term “document” is intended to have a broad meaning, and includes any and all documents and information in connection with the proceedings of the Commission on Foreign Interference (the “Commission”), including without limitation, any and all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device and any other information pertaining to the Inquiry, irrespective of whether such information or documentation has been identified as confidential, and includes all other material prepared containing or based, in whole or in part, on any information included in the foregoing, including any anticipated evidence statements, witness interview summaries statements or Overview Reports prepared by Commission counsel.

I, \_\_\_\_\_, undertake to the Commission that any and all documents which are produced to me in connection with the Commission’s proceedings will not be used by me for any purpose other than those proceedings, with the exception of any documents that are otherwise publicly available. I further undertake that I will not disclose any such documents to anyone for whom I do not act or who has not been retained as an expert for the purposes of the Inquiry. In respect of anyone for whom I act, or any witness, or any expert retained for the purposes of the Inquiry, I further undertake that I will only disclose such documents upon the individual to whom they are disclosed giving the written undertaking annexed as Appendix “B” to these Rules.

I understand that this undertaking ceases to apply to any document that becomes part of the Public Hearings of the Commission, or to the extent that the Commissioner has provided a written release to me from the undertaking with respect to any document. For greater certainty, a document is only part of the Public Hearings once the document is made a public exhibit at the Public Hearings. In addition, this undertaking and any requests for deletion are limited by any requirement to retain or disclose records and information as may be provided for by law.

With respect to those documents which remain subject to this undertaking at the end of the Public Hearing, I undertake to either destroy those documents, and provide a certificate of destruction to the Commission, or to return those documents to the Commission for destruction. I further undertake to collect for destruction such documents from anyone to whom I have disclosed any documents that were produced to me in connection with the Commission’s proceedings.

I understand that a breach of any of the provisions of this Undertaking is a breach of an order made by the Commission, and of the Rules of Practice and Procedure.

\_\_\_\_\_ Signature

\_\_\_\_\_ Witness

\_\_\_\_\_ Date

\_\_\_\_\_ Date

**APPENDIX “B”**

**Confidentiality Undertaking for Represented Participants, Potential Witnesses, and Experts in the Commission on Foreign Interference**

For the purpose of this Undertaking, the term “document” is intended to have a broad meaning, and includes any and all documents and information in connection with the proceedings of the Commission on Foreign Interference (the “Commission”), including without limitation, any and all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device and any other information pertaining to the Inquiry, irrespective of whether such information or documentation has been identified as confidential, and includes all other material prepared containing or based, in whole or in part, on any information included in the foregoing, including any anticipated evidence statements, witness interview summaries statements or Overview Reports prepared by Commission counsel.

I, \_\_\_\_\_, undertake to the Commission that any and all documents which are produced to me in connection with the Commission’s proceedings will not be used by me for any purpose other than those proceedings, with the exception of any documents which are otherwise publicly available. I further undertake that I will not disclose any such documents to anyone.

I understand that this undertaking ceases to apply to any document that becomes part of the Public Hearings of the Commission, or to the extent that the Commissioner has provided a written release to me from the undertaking with respect to any document. For greater certainty, a document is only part of the Public Hearings once the document is made a public exhibit at the Public Hearings. In addition, this undertaking and any requests for deletion are limited by any requirement to retain or disclose records and information as may be provided for by law.

With respect to those documents that remain subject to this undertaking at the end of the Public Hearing, I further understand that such documents will be collected from me by the person who disclosed them to me: my legal representative, if applicable, or Commission counsel or a person designated by Commission counsel, as the case may be.

I understand that a breach of any of the provisions of this Undertaking is a breach of an order made by the Commission, and of the Rules of Practice and Procedure.

\_\_\_\_\_ Signature

\_\_\_\_\_ Witness

\_\_\_\_\_ Date

\_\_\_\_\_ Date



**APPENDIX “C”**

**Confidentiality Undertaking for Unrepresented Participants, Potential Witnesses, and Experts in the Commission on Foreign Interference**

For the purpose of this Undertaking, the term “document” is intended to have a broad meaning, and includes any and all documents and information in connection with the proceedings of the Commission on Foreign Interference (the “Commission”), including without limitation, any and all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device and any other information pertaining to the Inquiry, irrespective of whether such information or documentation has been identified as confidential, and includes all other material prepared containing or based, in whole or in part, on any information included in the foregoing, including any anticipated evidence statements, witness interview summaries statements or Overview Reports prepared by Commission counsel.

I, \_\_\_\_\_, undertake to the Commission that any and all documents which are produced to me in connection with the Commission’s proceedings will not be used by me for any purpose other than those proceedings, with the exception of any documents which are otherwise publicly available. I further undertake that I will not disclose any such documents to anyone.

I understand that this undertaking ceases to apply to any document that becomes part of the Public Hearings of the Commission, or to the extent that the Commissioner has provided a written release to me from the undertaking with respect to any document. For greater certainty, a document is only part of the Public Hearings once the document is made a public exhibit at the Public Hearings. In addition, this undertaking and any requests for deletion are limited by any requirement to retain or disclose records and information as may be provided for by law.

With respect to those documents that remain subject to this undertaking at the end of the Public Hearing, I further understand that such documents will be collected from me by the person who disclosed them to me: Commission counsel or a person designated by Commission counsel, as the case may be.

I understand that a breach of any of the provisions of this Undertaking is a breach of an order made by the Commission and of the Rules of Practice and Procedure.

\_\_\_\_\_ Signature \_\_\_\_\_ Witness

\_\_\_\_\_ Date \_\_\_\_\_ Date

## APPENDIX “D”

### **Confidentiality Undertaking for Persons Attending Interview by the Commission on Foreign Interference**

For the purpose of this Undertaking, the term “document” is intended to have a broad meaning, and includes any and all documents and information in connection with the proceedings of the Commission on Foreign Interference (the “Commission”), including without limitation, any and all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device and any other information pertaining to the Inquiry, irrespective of whether such information or documentation has been identified as confidential, and includes all other material prepared containing or based, in whole or in part, on any information included in the foregoing, including any anticipated evidence statements, witness interview summaries statements or Overview Reports prepared by Commission counsel.

I, \_\_\_\_\_, undertake to the Commission that, in addition to my obligations under any other undertaking I have entered, I will keep confidential the questions asked and answers given during any interviews with Commission counsel for which I am present or to which I am otherwise privy, as well as the fact and timing of the interview, until the end of the Commission’s mandate.

I further undertake that I will not record in any manner, including audio and video recording, the whole or any part of any interviews with Commission counsel for which I am present or to which I am otherwise privy. This undertaking does not prevent me from making handwritten or typewritten notes, provided that those notes are kept secure and confidential and are not disclosed to anyone.

An interviewee, attendee, or legal representative may share information about the interview, including handwritten or typewritten notes taken in compliance with this undertaking, only with legal representatives of the interviewee, provided that any legal representative who is made privy to that information also enters into this undertaking and provides a signed copy of it to Commission counsel before any information is shared with that person.

I further undertake that any and all documents which are produced to me, or which I review or am advised of during any interviews with Commission counsel will not be used by me or disclosed by me for any purpose other than those proceedings, with the exception of any documents which are otherwise publicly available. I further undertake that I will not disclose any such documents to anyone.

I understand that this undertaking ceases to apply to any document that becomes part of the Public Hearings of the Commission, or to the extent that the Commissioner has provided a written release to me from the undertaking with respect to any document. For greater certainty, a document is only part of the Public Hearings once the document is made a public exhibit at the Public Hearings. In addition, this undertaking and any requests for deletion are limited by any requirement to retain or disclose records and information as may be provided for by law.

I understand that a breach of any of the provisions of this Undertaking is a breach of an order made by the Commission and of the Rules of Practice and Procedure.

[Type here]

\_\_\_\_\_ Signature \_\_\_\_\_ Witness

\_\_\_\_\_ Date \_\_\_\_\_ Date