

Sent: 24/06/2019 16:26:35

Subject: PCA Case No. 2018-54: Tennant Energy, LLC (U.S.A.) v. Government of Canada

On the potential application of the General Data Protection Regulation 2016/679 (“**GDPR**”) to this arbitration, having carefully considered Parties’ submissions on this issue, the Tribunal finds that an arbitration under NAFTA Chapter 11, a treaty to which neither the European Union nor its Member States are party, does not, presumptively, come within the material scope of the GDPR. Accordingly, the Confidentiality Order makes no reference to the GDPR. This is without prejudice to the importance of ensuring a high level of data protection, and language to this effect has been added into the Confidentiality Order.

To the extent that a Party wishes to initiate court proceedings for the gathering of evidence from third parties, the Party is required to fully inform the Tribunal and the other Party in good time in advance of the application, including as regards the detail of the information that it is intended to seek, the court before which the application will be made, and the timing of the application. The Tribunal also expects the Party to report to the Tribunal and the other Party on the status of such court proceedings on a regular basis.

