

August 4, 2008

Ms. Meg Kinnear  
Mr. Barry Appleton

Reference: Document production letters of July 28, 2008 (Canada)  
and July 29, 2008 (Merrill & Ring Forestry L. P.)

Dear Ms. Kinnear and Mr. Appleton,

The Tribunal has examined your letters of reference and has decided as follows.

1. Clarification concerning Canada's Documents Requests 4 (a to d), 22, 23 (a and c).

The Tribunal sees no need to clarify its decision directing the Respondent to produce such documents. The submission of documents containing confidential commercial information is of course governed by the Tribunal's Confidentiality Order. Moreover, the Investor has agreed to such production in its letter of reference.

2. Clarification concerning Canada's Documents Request 67 (3).

The Order on Production of Documents indeed intended to include also Document 67 (3) and the Investor has agreed to produce it in its letter of reference.

3. Clarification concerning Canada's Documents Request 7 (a to c).

In addition to Documents 7 (a and b), the Order explicitly includes Document 7 (c). The same reasons concerning compelling confidential commercial information applies to all three and accordingly refusal to produce on this ground was upheld in respect of all such requests. The Tribunal is not privy to the discussions of the parties in which the Investor might have agreed to produce documents presently identified as 7 (c). If this was done the Tribunal would expect the parties to honour their agreements in good faith and proceed accordingly.

4. Deadline for redefining certain document requests the production of which has been ordered.

The Tribunal appreciates Canada's redefinition of some such documents in Annex 1 to its submission of reference. The Tribunal did not set a specific deadline to this effect and agrees with the Investor's suggestion to have them redefined by August 5, 2008, the same date on which the explanations concerning Cabinet Privilege are due from Canada. In view of the dates of the letters of reference, and of this answer of the Tribunal, any date earlier than August 5 would in fact not have been practicable.

5. Reconsideration concerning Document Requests 7 (a and b).

Canada requests the Tribunal to reconsider its decision to uphold the Investor's refusal to produce these documents. In the light of the conclusion in paragraph 3 above the Tribunal assumes that the same request would extend to Document 7 (c). The Tribunal does not believe that document production is the occasion to debate the reasons each party may have to arrive at certain conclusions, such as the choice of figures. The parties will have such an occasion in their Reply and Rejoinder and indeed at the hearing. The request is accordingly denied. For the same reason, the Tribunal could not allow the Investor to cross-examine, at this stage of the proceedings, the experts who have submitted affidavits in support of Canada's requests.

6. Reconsideration concerning Document Requests 8, 56, 60, 70 and 71.

Canada has also requested the Tribunal to reconsider its decision in respect of these documents. For the reasons given in paragraph 5 above, the Tribunal also denies these other requests for reconsideration and again notes that Canada may submit alternative

estimates, or oppose those of the Investor, in its forthcoming submissions and at the hearing.

7. Redefined schedule.

In view of the complexity characterizing the document production phase of this arbitration, the Tribunal agrees with the parties on the need to redefine the schedule to be followed. That suggested by the Investor as Items 1, 2 and 3 of its redefined schedule best meets the time demands needed to handle document production and its consideration by the parties. The Tribunal accordingly accepts these new dates.

In respect of Item 4, however, the Tribunal believes 15 days for letter a) and 30 days for letter b) to be sufficient to this effect.

As for Items 5 and 6, concerning the dates for the Reply and the Rejoinder, the Tribunal concludes that it is necessary to keep with the full 60 days that each such submission was allotted in the Minutes of the First Procedural Meeting. The 60 days allowed for the Reply shall be counted from the date Canada will produce the documents the production of which was previously refused on the ground of Cabinet Privilege, provided this production process shall not exceed September 15, 2008. The Tribunal notes that the reference to the Counter-Memorial made in paragraph 13 (9) should be to the Reply.

8. New Schedule.

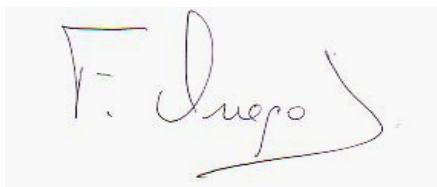
In accordance with the above considerations the Tribunal sets the following schedule for the continuation of the proceedings:

<b>Time</b>	<b>Event</b>
August 5, 2008	<p>Canada to submit any claim for privilege as a ground for refusing the production of a document ordered by the Tribunal</p> <p>The Investor to submit its redefined document requests</p>
August 18, 2008	The parties produce the documents pursuant to the SRDP, with the exception of the documents to the production of which objections have been made, and the documents that need to be redacted
August 20, 2008	The Investor to submit objections to Canada's refusal to produce on the ground of Cabinet Privilege in the form of a Redfern Schedule to the Tribunal
September 3, 2008	<p>The parties produce the redacted non-refused documents</p> <p>The parties produce the documents ordered by the Tribunal in its July 18, 2008 Decision, except for those that need to be redacted</p>
September 17, 2008	The parties produce the redacted ordered documents
15 days after the Tribunal's decision on Cabinet Privilege	Canada to produce documents the production of which was previously refused on the ground of Cabinet Privilege, except for those that need to be redacted
30 days after the Tribunal's decision on Cabinet Privilege	Canada to produce redacted documents the production of which was previously refused on the ground of Cabinet Privilege

60 days after the date Canada produces documents the production of which was previously refused on the ground of Cabinet Privilege not exceeding September 15, 2008.	Reply to be filed by the Investor
60 days after the Reply	Rejoinder to be filed by the Respondent

Thanking the parties for their cooperation, I remain

Yours Sincerely

A handwritten signature in black ink on a light gray background. The signature is written in a cursive style and appears to read "F. Orrego".

Francisco Orrego Vicuña  
On behalf of the Tribunal