

## Archived Content

Information identified as archived on the Web is for reference, research or recordkeeping purposes. It has not been altered or updated after the date of archiving. Web pages that are archived on the Web are not subject to the Government of Canada Web Standards. As per the [Communications Policy of the Government of Canada](#), you can request alternate formats by [contacting us](#).

## Contenu archivé

L'information archivée sur le Web est disponible à des fins de consultation, de recherche ou de tenue de dossiers seulement. Elle n'a été ni modifiée ni mise à jour depuis sa date d'archivage. Les pages archivées sur le Web ne sont pas assujetties aux normes Web du gouvernement du Canada. Conformément à la [Politique de communication du gouvernement du Canada](#), vous pouvez obtenir cette information dans un format de rechange en [communiquant avec nous](#).

## International Centre for Settlement of Investment Disputes

1818 H Street, N.W., Washington, D.C. 20433, U.S.A.  
Telephone: (202) 458-1534 Faxes (202) 522-2615/2027  
Website: www.worldbank.org/icsid

December 29, 2008

### By e-mail

Merrill & Ring Forestry L.P.  
c/o Mr. Barry Appleton  
Appleton & Associates International  
Lawyers  
77 Bloor Street West, Suite 1800  
Toronto, Ontario M5S 1N5  
Canada

Government of Canada  
c/o Ms. Lori Di Pierdomenico  
Counsel  
Trade Law Bureau  
Department of Foreign Affairs  
and International Trade  
125 Sussex Drive  
Ottawa, Ontario K1A 0G2  
Canada

**Re: Merrill & Ring Forestry L.P. v. Government of Canada  
NAFTA/UNCITRAL Arbitration Rules Proceeding**

Dear Ms. Di Pierdomenico and Mr. Appleton,

The President of the Tribunal has asked me to inform you of the following:

The Tribunal has duly considered the Respondent's letter of December 23, 2008, requesting the Tribunal to disregard the Investor's new damages claim including the Low and Ruffle Reports, or alternatively, to grant a 2-month extension to file its Rejoinder, as well as the Investor's comments dated December 24, 2008, concluding that Canada's request be dismissed and that the arbitration remain as scheduled.

The Tribunal finds the arguments of the Investor persuasive insofar as it has not changed its claim but has provided updated damages information using a new method of calculation responsive to the arguments made by the Respondent in its Counter-Memorial and based on available data. The Tribunal considers that Canada has an adequate opportunity to respond to this new approach in its Rejoinder and at the hearing. This is specifically the case envisaged in paragraph 15 of the Order Concerning Requests for Documents and Certain Evidentiary Matters dated January 21, 2008.

With respect to the supporting documentation to the Low and Ruffle Reports, the Tribunal relies on the Investor's statement made in its letter of December 24, 2008, that materials relied upon by the experts have been produced. The Tribunal does not consider it appropriate to enter into a new document production phase. However, Canada may be allowed, if necessary, to request directly from the Investor specific documents for the

December 29, 2008

completion of information relied upon by the Investor's experts that might not have been annexed to the Reports or otherwise available in the record.

In light of the above, the Tribunal dismisses Canada's motion and maintains the arbitration schedule.

The Respondent shall accordingly submit its Rejoinder on March 27, 2009, and the hearing shall take place the week of May 18, 2009.

Sincerely yours,

A handwritten signature in black ink that reads "Eloise Obadia". The signature is written in a cursive style with a long horizontal flourish underneath.

Eloise M. Obadia  
Senior Counsel

cc: Members of the Tribunal