



Reference: *Burns Lake Native Development Corporation et al. v. Commissioner of Competition, West Fraser Co. Ltd. and West Fraser Mills Ltd.*,
2005 Comp. Trib. 25
File No. CT 2004-013
Registry Document No. 0035

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c.C-34;

AND IN THE MATTER OF sections 3 and 49 of the *Competition Tribunal Rules*, SOR/94-290;

AND IN THE MATTER OF an application under Section 106(2) of the *Competition Act* by Burns Lake Native Development Corporation, Lake Babine Nation, Burns Lake Band, Nee Tahí Buhn Indian Band to rescind or vary the Consent Agreement between the Commissioner of Competition and West Fraser Timber Co. Ltd. and West Fraser Mills Ltd. filed and registered with the Competition Tribunal on December 7, 2004, under Section 105 of the *Competition Act*.

BETWEEN:

BURNS LAKE NATIVE DEVELOPMENT CORPORATION, COUNCIL OF LAKE BABINE NATION AND EMMA PALMANTIER, ON HER OWN BEHALF AND ON BEHALF OF ALL MEMBERS OF LAKE BABINE NATION, COUNCIL OF BURNS LAKE BAND AND ROBERT CHARLIE, ON HIS OWN BEHALF AND ON BEHALF OF ALL MEMBERS OF BURNS LAKE BAND AND COUNCIL OF NEE TAHI BUHN INDIAN BAND AND RAY MORRIS, ON HIS OWN BEHALF AND ON BEHALF OF ALL MEMBERS OF NEE TAHI BUHN INDIAN BAND
(applicants)

and

THE COMMISSIONER OF COMPETITION, WEST FRASER TIMBER CO. LTD. AND WEST FRASER MILLS LTD.
(respondents)

Date of conference call: April 13, 2005

Member: Simpson J. (Chairperson)

Date of order: April 13, 2005

**ORDER MADE DURING THE CASE MANAGEMENT
CONFERENCE CALL HELD ON APRIL 13, 2005**



UPON convening by conference call on April 13, 2005, the first case management hearing on the Reference filed by the Commissioner of Competition (the "Commissioner") and dated April 4th, 2005 concerning the Application filed by Burns Lake Native Development Corporation et al. (the "Applicants") dated February 3, 2005, amended February 11, 2005;

UPON reading the written submissions of counsel for the Applicants, dated March 15 and April 5, 2005, the written submissions of counsel for the Commissioner dated March 15, April 2, April 6 and April 12, 2005 and the written submissions of counsel for West Fraser Timber Co. Ltd. and West Fraser Mills Ltd. ("West Fraser"), dated March 15, 2005;

AND UPON hearing submissions by Mr. Orestes Pasparakis, counsel for the Applicants, Ms. Melanie Aitken, counsel for the counsel for the Commissioner, and Mr. James Musgrove, counsel for West Fraser;

NOW THEREFORE THE TRIBUNAL RULES:

[I] The Commissioner's Reference filed on April 4, 2005 is the correct procedure for the determination of the issues therein within this proceeding and s. 72(1) of the *Competition Tribunal Rules* (the "gap rule") therefore does not apply.

DATED at Ottawa, this 13th day of April, 2005.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) Sandra J. Simpson

APPEARANCES:

For the applicants:

Burns Lake Native Development Corp. et al.

Mr. Dany Assaf

Mr. Michael Brown

Mr. Orestes Pasparakis

For the respondents:

Commissioner of Competition

Ms. Melanie Aitken

Mr. Duane Schippers

Mr. Derek Bell

West Fraser Timber Co. Ltd.

Mr. James Musgrove

Mr. Larry Hughes