



June 3, 2005

RULES AND PROCEDURES WITH RESPECT TO ELECTRONIC TRANSMISSION OF DOCUMENTS

The Tribunal is reviewing its rules and procedures with respect to the electronic transmission of documents to the Tribunal, to counsel and to unrepresented parties.

The Tribunal is in the early stages of a project that would allow for the electronic filing of documents. The Tribunal recognizes the benefits of moving to an electronic system for the filing and transmission of documents, but any such system must be capable of ensuring the protection of confidential information.

In light of the above, the Tribunal directs counsel to adhere to the following practices:

- With respect to transmission by **e-mail**, the Tribunal is maintaining its prohibition against the transmission of documents containing third-party confidential information. In addition, **until further notice**, it directs that e-mails not be used to transmit documents that contain redacted (i.e. hidden or blanked-out) portions of third-party confidential information. In other words, e-mails may only be used to transmit “fully public” documents, that is, documents that do not include any third-party confidential information or redacted portions thereof.
- With respect to transmission by **facsimile**, the Tribunal is maintaining its prohibition against the transmission of documents containing third-party confidential information. It continues to permit the transmission of “fully public” documents in this manner. Further, even though the Tribunal will continue to allow transmission by facsimile of documents containing redacted portions, it nonetheless directs counsel, **until further notice**, to transmit such documents from hard-copy originals only.

The following table summarizes the above directions:

	Transmission by E-mail	Transmission by Facsimile
Protected Document	No	No
Redacted Document	No	Yes (from hard-copy original)
Fully Public Document	Yes	Yes

It is important to note that the above directions apply to all transmissions between counsel and the Tribunal and among counsel themselves, for the purposes of scheduled filings (e.g. filing of briefs and witness statements), as well as *ad hoc* filings (e.g. arguments on a motion), as the case may be.

In those circumstances where the Tribunal directs that counsel serve each other directly, and notwithstanding the direction, counsel prefer that a confidential document be served by the Tribunal, counsel are directed to notify the Tribunal and to provide the document sufficiently ahead of time to ensure that it can transmit that document to the recipient-counsel in accordance with the established deadline.

The Tribunal will hold consultations with counsel in the coming months prior to issuing a comprehensive practice notice in respect of the transmission of electronic documents.

Finally, the Tribunal reminds all counsel of the following guiding principle with respect to the transmission and serving of confidential information: **third-party protected information** must not be transmitted using electronic means. At their own risk, counsel may choose to send submissions containing protected information by electronic means, but only if such information pertains exclusively to their own client(s). The Tribunal will continue its practice of not sending protected information by electronic means.

Yours sincerely,

Hélène Nadeau
Secretary