



Federal Court of Canada

2002-03 Report

TABLE OF CONTENTS

Introduction of the Chief Justice

| | |
|---|----|
| 1.0 Overview of the Federal Court of Canada | 1 |
| 1.1 Establishment | 1 |
| 1.2 Composition of the Court | 1 |
| 1.3 Deputy Judges | 1 |
| 1.4 Additional Duties of Judges | 1 |
| 1.5 Committees | 2 |
| 1.6 Appointments, Retirements/Resignations and Judges of the Federal Court of Canada | 3 |
| 1.7 Prothonotaries | 5 |
| 1.8 Composition of the Registry | 5 |
| 1.9 Judicial Administration | 6 |
| 1.10 Law Clerks | 6 |
| 2.0 Jurisdiction and Procedure | 8 |
| 2.1 Jurisdiction | 8 |
| 2.2 Procedure | 8 |
| 2.3 Rules Committee | 8 |
| 2.4 Video-conferencing and teleconferencing | 9 |
| 3.0 Court Activities | 10 |
| 3.1 Annual Meeting of the Court | 10 |
| 3.2 Judicial Education | 10 |
| 3.3 Consolidation of Administrative Services | 10 |
| 3.4 Visitors to the Court | 11 |
| 4.0 Volume and Pace of Litigation | 12 |
| 4.1 Delay Reduction Programme Update | 12 |
| 4.2 Volume of Litigation in the Court of Appeal | 12 |
| 4.3 Pace of Litigation in the Court of Appeal | 13 |
| 4.4 Volume of Litigation in the Trial Division | 13 |
| 4.5 Pace of Litigation in the Trial Division | 15 |
| 5.0 Registry Activity | 19 |
| 5.1 Overview | 19 |
| 5.2 Accommodations | 19 |
| 5.3 Administrative Proceedings | 20 |
| 5.4 Case Management | 21 |
| 5.5 Technology Initiatives | 21 |
| 5.6 Registry | 24 |
| 5.7 Financial Management | 25 |
| 5.8 Security | 26 |
| Appendix 1 | 27 |
| Appendix 2 | 29 |



It is fitting that on these heights above the Ottawa – surely one of the noblest situations in the world – you should add to the imposing group of buildings which house your Parliament and the executive branch of government. Henceforth, on these river-side cliffs, there will stand in this beautiful Capital, a group of public buildings unsurpassed as a symbol of the free and democratic institutions which are our greatest heritage.

These words were iterated by Her Majesty Queen Elizabeth, in the presence of His Majesty King George VI, during the ceremony to lay the foundation stone of the current Supreme Court of Canada Building on May 20, 1939. Since 1946, the Supreme Court of Canada Building has been co-occupied by both the Supreme Court of Canada and the Exchequer Court of Canada, which from June 1, 1971 has been known as the Federal Court of Canada. Although the Federal Court of Appeal will be moving out of this historic building to provide additional space for judges and staff of the Supreme Court of Canada, another symbol of the “free and democratic institutions which are our greatest heritage” will soon be erected on this distinguished promontory. The construction of the Federal Judicial Building, which was announced on May 8, 2002, will house the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada and the Tax Court of Canada. It is expected to be completed by the fall 2007.

More recently, on May 22, 2003, the *Courts Administration Service Act* was promulgated by the Governor in Council and will come into force on July 2, 2003. This legislation amends the Federal Court Act to create a separate appellate court—the Federal Court of Appeal, and a trial court—the Federal Court, from the existing two divisions of the Federal Court of Canada. As a result, this Annual Report marks the last annual report of the Federal Court of Canada. Hereafter, there will likely be separate annual reports for both the Federal Court of Appeal and the Federal Court. Furthermore, the *Courts Administration Service Act* establishes a single administrative structure, the Courts Administration Service, for the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada and the Tax Court of Canada and it changes the status of the Tax Court of Canada to that of a superior court.

The construction of the Federal Judicial Building, combined with the promulgation of the *Courts Administration Service Act*, S.C. 2002, c. 8 are important milestones in the evolution of this judicial institution and its Registry. The Federal Court of Canada, and its predecessor the Exchequer Court of Canada, have been an integral part of Canadian history and jurisprudence since 1875. The Federal Court of Appeal and the Federal Court will continue this legacy.

Francis Bacon once said, “If we do not maintain justice, justice will not maintain us.” The above-cited initiatives will hopefully provide the maintenance and support required by these important pillars of Canadian justice.



John D. Richard
Chief Justice



1.0 OVERVIEW OF THE FEDERAL COURT OF CANADA

1.1 Establishment

The Federal Court of Canada was established in 1971 as the successor to the Exchequer Court of Canada, which was founded in 1875¹. Both courts were established under the authority of section 101 of the *Constitution Act, 1867*, as courts of law, equity and admiralty for the “better Administration of the Laws of Canada.” The Federal Court is a superior court of record and has civil and criminal jurisdiction.

The Court is bilingual, offering its services in both official languages of Canada, and bijural, administering the two legal systems—common law and civil law. It is also itinerant, in the sense that it sits and transacts business at any place in Canada to suit, as close in proximity as may be, the convenience of the parties. It is the Court’s objective to secure the just, most expeditious and least expensive determination of every proceeding based on its merits.

1.2 Composition of the Court

The Court consists of two divisions: the Federal Court of Appeal and the Federal Court - Trial Division. The judicial complement of the Court consists of a Chief Justice, an Associate Chief Justice, 12 puisne judges of the Court of Appeal and 32 puisne judges of the Trial Division. As of May 31, 2003, there are 10 puisne judges of the Court of Appeal and 21 puisne judges of the Trial Division, excluding supernumerary judges.

In addition, the Court is composed of senior judges who have elected supernumerary status under the *Judges Act*.

The Chief Justice is president of the Federal Court of Canada and of the Court of Appeal. The Associate Chief Justice is president of the Trial Division. Judges of each division are *ex officio* members of the other division. At least 15 of the judges of the Court must be persons who have been judges of the Court of Appeal or Superior Court of Québec, or have been members of the Barreau du Québec. As of May 31, 2003 there were 15 such judges.

A list of the judges of the Court and the details of their appointment and status as regular or supernumerary judges appear on page 4.

1.3 Deputy Judges

Under section 10 of the *Federal Court Act*, a judge of a superior, county or district court in Canada, or any such former judge may be designated as a deputy judge of the Federal Court. Designations are made at the request of the Chief Justice with the approval of the Governor in Council pursuant to Privy Council Order 1973-6/1953.

1.4 Additional Duties of Judges

In addition to their regular duties, judges of the Court are required to devote time to the work of other courts and tribunals. Judges of the Trial Division sit as Umpires to hear appeals under the *Employment Insurance Act*, under the direction of the Associate Chief Justice who is Chief Umpire.

Similarly, up to six judges of the Trial Division sit as members of the Competition Tribunal, of which the Honourable Madam Justice Sandra J. Simpson is Acting Chairperson. On February 26, 2002, the Honourable Madam Justice Eleanor R. Dawson and the Honourable Mr. Justice François Lemieux were appointed as members of the Tribunal. These appointments to the Tribunal were followed by those of the Honourable Mr. Justice Pierre Blais and the Honourable Mr. Justice Edmond P. Blanchard on October 29, 2002.

Judges of both divisions of the Court sit as members of the Court Martial Appeal Court of Canada, of which the Honourable Mr. Justice Barry L. Strayer is Chief Justice. Judges may also act as commissioners for inquiries conducted under the *Inquiries Act* and the *Corrections and Conditional Release Act* and may sit as assessors under other federal statutes. Judges of the Court lecture and write articles about the law and participate as lecturers, seminar leaders or panelists in continuing education programmes for the benefit both of colleagues on this and other courts as well as of members of the bar.

¹ While its enabling legislation was passed in 1875, the Court was not fully operational until the following year.

Moreover, judges may be appointed to Commissions of Enquiry abroad. For instance, by an Order-in-Council dated August 3, 2001, the Honourable Mr. Justice Julius A. Isaac was appointed as Chair of the Commissions of Enquiry in Jamaica for the upsurge of violence that had taken place in July 2001 in West Kingston. On July 1, 2002 the report was tabled in the Jamaican Parliament. It contained several recommendations to assist the Jamaican Security Forces in the effective and professional discharge of their duties. The report also recommended steps to help the affected communities build a peaceful social order. At the conclusion of the enquiry on June 28, 2002, the Honourable Mr. Justice Isaac resumed his duties at the Federal Court of Appeal.

1.5 Committees

In order to involve judges in the varied work of the Court, the Chief Justice established a number of committees, composed of representatives of both divisions of the Court. These committees include:

The **Accommodations Committee**, chaired by the Chief Justice, deals with the physical accommodations for the Court in the National Capital Region (NCR) and in centres where the Court maintains its own local offices.

The **Bench and Bar Liaison Committee**, chaired by the Chief Justice, provides a forum for members of the bar to meet with the judges to discuss informally issues of concern to the bar which do not fall within the mandate of the Rules Committee.

On May 9, 2003, the Bench and Bar Liaison Committee held a meeting to discuss the *Courts Administration Service Act*, accommodations, the Federal Court website, and educational seminars, as well as special interest topics proposed by the Canadian Bar Association.

The **Technology Advisory Committee** has the following mandate:

- i) to advise the Chief Justice, the Associate Chief Justice, the Administrator and the judges of the Court with respect to the introduction

and use of computer technology which involves or impacts on the work of judges;

- ii) to consider new computer-related developments of relevance to the work of the judges and to propose their adoption where appropriate;
- iii) to provide a bridge between the administration of the Court and the judges by assisting the latter to be more informed about computer use, and to promote support services and training for judges in their use of computers; and,
- iv) to serve as a point of contact with the Computer Advisory Committee of the Canadian Judicial Council (CJC) and similar committees in other superior courts.

This committee is chaired by the Honourable Mr. Justice J.D. Denis Pelletier who is also a member of the Court's Web (Internet) Site Committee.

The **Judicial Education Committee**, chaired by the Honourable Mr. Justice John M. Evans, organizes the annual meeting of the Court and arranges continuing legal education seminars for judges.

The **Law Clerks Committee**, co-chaired by the Honourable Mr. Justice J. Brian D. Malone and the Honourable Madam Justice Danièle Tremblay-Lamer, oversees the recruitment and selection of law clerks.

The **Library Committee**, chaired by the Honourable Madam Justice Karen R. Sharlow, advises the Head Librarian on library objectives, policies, services and collection development.

The **Communications Committee** is chaired by the Chief Justice. The objectives of this Committee are:

- i) to establish guidelines for interaction with the news media;
- ii) to develop and implement a public information plan for the national framework of the Court; and,

iii) to develop and implement effective educational initiatives promoting a better understanding of the Court and its operations.

The **Liaison Committee with the Bar of Montréal** is chaired by the Chief Justice. It provides a forum in which members of the Bench and Bar may discuss the interaction between the Civil Code of Québec and federal law and practices.

In addition, section 45.1 of the *Federal Court Act* establishes a **Rules Committee** composed of the Chief Justice, the Associate Chief Justice, seven other judges of the Court, a representative of the Attorney General of Canada, and five members of the practising bar designated by the Attorney General of Canada after consultation with the Chief Justice. These designated members of the bar are nominated by the Chief Justice after consultation with the Canadian Bar Association (CBA). They are representative of the different regions of Canada and the various areas of practice within the jurisdiction of the Court. The Chief Justice is the statutory Chair of this Committee.

1.6 Appointments, Retirements/ Resignations and Judges of the Federal Court of Canada

The Honourable Michel Beaudry of Gatineau, Québec, was appointed a Judge of the Trial Division on January 25, 2002. He replaced the Honourable Justice Max M. Teitelbaum who elected to become a supernumerary judge on October 30, 2000.

The Honourable Luc Martineau of Montréal, Québec, was appointed Judge of the Trial Division on January 25, 2002. He replaced the Honourable Justice Pierre Denault who retired on November 1, 2001.

The Honourable Carolyn A. Layden-Stevenson of Fredericton, New Brunswick, was appointed Judge of the Trial Division on January 25, 2002. She replaced the Honourable Justice William P. McKeown who elected to become a supernumerary judge on December 19, 2001.

The Honourable Simon Noël of Gatineau, Québec, was appointed a Judge of the Trial Division on August 8, 2002. He replaced the Honourable Marc Nadon who was appointed a Judge of the Court of Appeal on December 14, 2001.

The Honourable Judith A. Snider of Calgary, Alberta, was appointed a Judge of the Trial Division on October 10, 2002. She replaced the Honourable J.D. Denis Pelletier who was appointed a Judge of the Court of Appeal on December 14, 2001.

The Honourable James Russell of Saskatoon, Saskatchewan, was appointed a Judge of the Trial Division on December 11, 2002. He fills a newly established position on the Court resulting from the amendment to the *Federal Court Act* following the passage of the *Anti-terrorism Act*.

The Honourable Johanne Gauthier of Montréal, Québec, was appointed a Judge of the Trial Division on December 11, 2002. She fills a newly established position on the Court resulting from the amendment to the *Federal Court Act* due to the passage of the *Anti-terrorism Act*.

The Honourable James W. O'Reilly of Ottawa, Ontario, was appointed a Judge of the Trial Division on December 12, 2002. He fills a newly established position resulting from the amendment to the *Federal Court Act* due to the passage of the *Anti-terrorism Act*.

Retirement/Resignation

The Honourable William P. McKeown retired effective September 1, 2002.

The Honourable Donna McGillis resigned effective May 15, 2003.

Judges of the Federal Court of Canada as of May 31, 2003

Chief Justice

The Honourable John D. Richard
August 30, 1994 (Trial Division)
June 23, 1998 (Associate Chief Justice)
November 4, 1999 (*Chief Justice*)

Associate Chief Justice

The Honourable Allan Lutfy
August 7, 1996 (Trial Division)
December 8, 1999 (*Associate Chief Justice*)

Judges of the Court of Appeal

The Honourable Arthur J. Stone
July 18, 1983
July 18, 1998 (*Supernumerary*)

The Honourable Barry L. Strayer
July 18, 1983 (Trial Division)
August 30, 1994 (Court of Appeal)
September 1, 1998 (*Supernumerary*)

The Honourable Alice Desjardins
June 29, 1987
August 11, 1999 (*Supernumerary*)

The Honourable Robert Décary
March 14, 1990

The Honourable Allen M. Linden
July 5, 1990
January 7, 2000 (*Supernumerary*)

The Honourable Julius A. Isaac
December 24, 1991 (Chief Justice)
September 1, 1999 (*Supernumerary*)

The Honourable Gilles Létourneau
May 13, 1992

The Honourable Marshall E. Rothstein
June 24, 1992 (Trial Division)
January 21, 1999 (*Court of Appeal*)

The Honourable Marc Noël
June 24, 1992 (Trial Division)
June 23, 1998 (*Court of Appeal*)

The Honourable Marc Nadon
June 10, 1993 (Trial Division)
December 14, 2001 (*Court of Appeal*)

The Honourable J. Edgar Sexton
June 23, 1998

The Honourable John M. Evans
June 26, 1998 (Trial Division)
December 8, 1999 (*Court of Appeal*)

The Honourable Karen R. Sharlow
January 21, 1999 (Trial Division)
November 4, 1999 (*Court of Appeal*)

The Honourable J.D. Denis Pelletier
February 16, 1999 (Trial Division)
December 14, 2001 (*Court of Appeal*)

The Honourable J. Brian D. Malone
November 4, 1999

Judges of the Trial Division

The Honourable Paul U.C. Rouleau
August 5, 1982
July 28, 1996 (*Supernumerary*)

The Honourable James K. Hugessen
July 18, 1983 (Court of Appeal)
June 23, 1998 (Trial Division)
July 26, 1998 (*Supernumerary*)

The Honourable Yvon Pinard, P.C.
June 29, 1984

The Honourable Max M. Teitelbaum
October 29, 1985
October 30, 2000 (*Supernumerary*)

The Honourable W. Andrew MacKay
September 2, 1988
June 1, 2000 (*Supernumerary*)

The Honourable Frederick E. Gibson
April 1, 1993

The Honourable Sandra J. Simpson
June 10, 1993

The Honourable Danièle Tremblay-Lamer
June 16, 1993

The Honourable Douglas R. Campbell
December 8, 1995

The Honourable Pierre Blais, P.C.
June 23, 1998

The Honourable François Lemieux
January 21, 1999

The Honourable John A. O'Keefe
June 30, 1999

The Honourable Elizabeth Heneghan
November 15, 1999

The Honourable Dolores Hansen
December 8, 1999

The Honourable Eleanor R. Dawson
December 8, 1999

The Honourable Edmond P. Blanchard
October 5, 2000

The Honourable Michael A. Kelen
July 31, 2001

The Honourable Michel Beaudry
January 25, 2002

The Honourable Luc Martineau
January 25, 2002

The Honourable Carolyn Layden-Stevenson
January 25, 2002

The Honourable Simon Noël
August 8, 2002

The Honourable Judith A. Snider
October 10, 2002

The Honourable James Russell
December 11, 2002

The Honourable Johanne Gauthier
December 11, 2002

The Honourable James W. O'Reilly
December 12, 2002

1.7 Prothonotaries

Prothonotaries are barristers or advocates of a province who are appointed to assist the Court in the efficient performance of its work. Their jurisdiction is defined in the *Federal Court Rules*. Upon the adoption of the *Federal Court Rules, 1998* and the *Rules Amending the Federal Court Rules, 1998 and the Class Proceedings Rules and Miscellaneous Rules* [SOR 2002- 417], the jurisdiction of prothonotaries was enlarged to include:

- i) the hearing and determination of most interlocutory motions to the Court;
- ii) small claims jurisdiction to hear and to determine any action for exclusively monetary relief in which the amount claimed does not exceed \$50,000.00, exclusive of interest and costs; and,
- iii) the hearing of a claim in respect of one or more individual questions in a class action in which the amount claimed by the member of the class does not exceed \$50,000 exclusive of interest and costs.

Prothonotaries play an important role in case management. They conduct pre-trial conferences, mediations, early neutral evaluations and mini-trials.

As of May 31, 2003, the prothonotaries of the Court were:

John A. Hargrave
Prothonotary (Vancouver)
Appointed February 17, 1994

Richard Morneau
Prothonotary (Montréal)
Appointed November 28, 1995

Roza Aronovitch
Prothonotary (Ottawa)
Appointed March 15, 1999

Roger R. Lafrenière
Prothonotary (Toronto)
Appointed April 1, 1999

Mireille A. Tabib
Prothonotary (Ottawa)
Appointed April 22, 2003

Retirement

Associate Senior Prothonotary Peter A.K. Giles retired effective March 28, 2002.

1.8 Composition of the Registry

The Registry of the Court consists of the principal office in the National Capital Region (NCR) and 16 local offices located across Canada. The principal office provides various services to the Court such as policy advice, human resources, financial and property management, as well as computer/technical and library support. The principal and the local offices provide operational support to the Court and information to the legal community and the public. There is a collaborative effort between the principal and local offices in scheduling hearings and organizing all aspects of Court sittings.

The Registry is headed by an Administrator, who is accountable to the Chief Justice for all administrative matters pertaining to the operation of the Court and the Registry. The Administrator is also the Deputy of the Commissioner for Federal Judicial Affairs (FJA) for purposes of preparing budgetary submissions for the Court and for making such other administrative arrangements as are necessary to ensure that all reasonable requirements, including those for premises, equipment and other supplies and services for officers, clerks and employees of the Federal Court, and for the performance of its operations are provided for in accordance with law.

Registry staff, appointed pursuant to the *Public Service Employment Act* (PSEA), carry out the various administrative functions as are required by the *Federal Court Rules, 1998*. Pursuant to section 236 of the *National Defence Act*, Registry staff perform the duties of their respective offices in relation to the Court Martial Appeal Court of Canada as well.

The Registry is comprised of the following: Office of the Administrator, Appeal Division, Trial Division, Regional Operations, Administrative and Judicial Services and Corporate Services. This latter section includes: human resources, finance, informatics, real property, security, the Federal Judicial Building Project Team and planning and communications. A list of principal staff, as of May 31, 2003, may be found on page 7.

A list of the local offices of the Court is provided in Appendix 1.

1.9 Judicial Administration

The Chief Justice is assisted in his management of the Court by an Executive Officer, who is also the media relations officer for the Court and secretary to the statutory Rules Committee. Similarly, the Associate Chief Justice is assisted by an Executive Officer. Moreover, the Chief Justice and the Associate Chief Justice have designated Judicial Administrators to assist them in the scheduling of sittings and in the performance of their nonjudicial duties. As of May 31, 2003, the persons carrying out those functions were:

Executive Officer to the Chief Justice
Chantelle Bowers

Executive Officer to the Associate Chief Justice
Emily McCarthy

Judicial Administrator (Appeal Division)
Suzelle Bazinet

Judicial Administrator (Trial Division)
Giovanna Calamo

1.10 Law Clerks

Recent graduates of law schools in Canada are invited to apply for positions as law clerks to judges of the Court. Notices regarding the law clerks programme are distributed to Canadian law schools. During 2002, there were 37 law clerks employed at the Court. Under the supervision and direction of the Head of Research - Appeal Division or Head of Research - Trial Division, the law clerks prepare case summaries, research questions of law and prepare detailed memoranda on facts and legal issues as instructed by the judges to whom they are assigned.

REGISTRY

| | |
|---|------------------------------------|
| Administrator of the Court | Robert Biljan |
| Deputy Administrator - Operations and Finance | Pierre R. Gaudet |
| Chief Information Officer | Gary Pinder |
| Deputy Administrator - Human Resources | Cathryn Taubman |
| Special Advisor | Charles E. Stinson |
| Regional Director - Québec & Atlantic | Monique Giroux |
| Regional Director - Ontario | Rita Bezuhly |
| Regional Director - Western | Gail MacIver |
| Director, Informatics and Real Property Services | Mike Prescott |
| Head Librarian | Rosalie Fox |
| Director, Administrative and Judicial Services | Pat Levac |
| Head, Research & Law Clerks - Appeal Division | Marc Reinhardt |
| Head, Research & Law Clerks - Trial Division | Christine Ball |
| Manager, Planning and Communications | Lydia M. Tonelli |
| Executive Assistant to the Administrator of the Court, and General Inquiries | Pierrette Brunet (613) 995-6719 |

2.0 JURISDICTION AND PROCEDURE

2.1 Jurisdiction

The jurisdiction of the Federal Court, like that of its predecessor the Exchequer Court of Canada, has evolved with the legislative responses by Parliament to the changing needs of Canadians and today embraces a broad range of subject matter.

The Federal Court exercises a specialized jurisdiction, including a limited criminal jurisdiction, in areas governed by federal law. For example, the Court exercises jurisdiction in admiralty, intellectual property, proceedings by or against the Crown in right of Canada, and the supervision of federal boards, commissions and other tribunals either by way of statutory appeal or of judicial review. Several statutes, including: the *Canada Evidence Act*, the *Canadian Security Intelligence Service Act* and the *Immigration and Refugee Protection Act* require judges of the Court to conduct *in camera* or public hearings to determine issues related to national defence and security. The *Competition Act* gives the Federal Court - Trial Division all of the powers and jurisdiction of a superior court of criminal jurisdiction in respect of the prosecution of certain offences under that legislation.

A list of some of the federal statutes under which the Federal Court may exercise jurisdiction appears in Appendix 2.

2.2 Procedure

The general rules governing practice and procedure in the Court are made by the Rules Committee, established under section 45.1 of the *Federal Court Act*, as amended by S.C. 1990, c. 8. The work of the Rules Committee, as of May 31, 2003, is reported in Part 2.3.

On June 28, 2002, the rules governing immigration applications and appeals before the Federal Court of Canada were amended by SOR/2002-232.

The *Federal Court Immigration and Refugee Protection Rules* are made by the Chief Justice pursuant to subsection 75(1) of the *Immigration and Refugee Protection Act*.

Subsequent amendments to the *Federal Court Immigration and Refugee Protection Rules* will be made by the Rules Committee, subject to Governor in Council approval once the *Courts Administration Service Act* comes into force on July 2, 2003.

2.3 Rules Committee

On November 21, 2002, Governor in Council approval was obtained for the *Rules Amending the Federal Court Rules, 1998 and the Class Proceedings Rules and Miscellaneous Rules* [SOR 2002- 417]. These Rules were then published in the December 4, 2002 version of the Canada Gazette, Part II. This was a result of a comprehensive revision of the *Federal Court Rules* which culminated in the *Federal Court Rules, 1998*. As part of that revision, consideration was given to enacting a rule for expanded class proceedings in the Federal Court. The Rules Committee's Discussion Paper, released in 2000, provided the basis for the development of the draft "Class Proceedings Rules".

The Rules Committee met most recently on May 2, 2003 in Ottawa, Ontario. Among other topics, the Rules Committee's primary goal was to examine consequential amendments that are required to the *Federal Court Rules, 1998* as a result of the *Courts Administration Service Act*. Directions were then given to Department of Justice drafters to provide a copy of the draft changes to the Rules Committee.

Of interest, section 43(1) of the *Courts Administration Service Act* changes the composition of the Rules Committee to include the following:

- (a) the Chief Justice of the Federal Court of Appeal and the Chief Justice of the Federal Court;
- (b) three judges designated by the Chief Justice of the Federal Court of Appeal and five judges designated by the Chief Justice of the Federal Court;
- (c) the Chief Administrator of the Courts Administration Service; and,
- (d) five members of the bar of any province designated by the Attorney General of Canada, after consultation

with the Chief Justice of the Federal Court of Appeal and the Chief Justice of the Federal Court.

The present Rules Committee composition remains in effect until the July 2, 2003 coming into effect date of the *Act*.

2.4 Video-conferencing and teleconferencing

The objectives of offering video- and teleconferencing facilities to litigants are:

- i) to provide an alternative means of access to Court hearings in order to facilitate the advancement of cases, including access on urgent matters and across long distances; and,
- ii) to save costs in time and travel for litigants, judges and Registry staff.

In 1996, the Court introduced pilot procedures by which parties may request that motions, case scheduling conferences, pre-trial conferences or other conference hearings proceed by way of video-conference. Videoconferencing installations have been established in Ottawa, Halifax, Montréal, Toronto, Edmonton and Vancouver. In 2002, 12 videoconferences were conducted. The number of videoconferences held from January 1, 2003 to May 31, 2003 was 11.

Teleconferencing is another service available for hearings. It provides expedient and relatively inexpensive access to the Court for litigants and, as such, is often utilized by litigants and their legal representatives because of its convenience. A total of 1,076 teleconferences were conducted during 2002 up from 1,028 in 2001. The number of teleconferences held from January 1, 2003 to May 31, 2003 was 525.

3.0 COURT ACTIVITIES

3.1 Annual Meeting of the Court

In 1992, the Court instituted the practice of holding an annual meeting of all judges to discuss the business of the Court and for professional development. The 2002 annual meeting was held from September 4 to 6, 2002 at Montebello, Québec.

On September 5, 2002, the Honourable Madam Justice Rosalie Abella of the Court of Appeal for Ontario addressed the subject of judges and public opinion. In the session devoted to Administrative Law, Professor Suzanne Comtois provided a comparison on the *Baker* and *Suresh* decisions. Mr. Chris Paliare spoke on how judicial review judgments are being received by practitioners and Professor Philip L. Bryden addressed the issue of tribunal independence. The Environmental Law Session dealt with new trends in the development of Canadian and international environmental law. Ms. Margot Priest, Professor Stepan Wood and Ms. Anne-Marie Sheahan led a discussion on that topic.

On September 6, 2002, as part of the Aboriginal Law session, Professor Brian J. Slattery spoke on Aboriginal and treaty rights and the Honourable Thomas Berger spoke on the constitutional dimensions of self-government treaties. Later on that day, the Court of Appeal and the Trial Division held separate sessions to discuss topics affecting their respective divisions. Reports of court committees were also received at a full meeting of the Court.

3.2 Judicial Education

Consistent with the Standards for Judicial Education in Canada, which was approved by the Board of Governors of the National Judicial Institute in October 1992 and in cooperation with the Canadian Institute for the Administration of Justice and the Canadian Institute for Advanced Legal Studies, the Judicial Education Committee was established to develop continuing education programmes for judges of the Court. In addition to the annual meeting of the Court mentioned in Part 3.1, the Committee organized, in collaboration with the National Judicial Institute, the following: a seminar on anti-terrorism legislation on

February 22, 2002; a Canadian Maritime Law Seminar in conjunction with the Canadian Maritime Law Association on April 12, 2002; a seminar on the *Immigration and Refugee Protection Act* on May 10, 2002; an international law seminar on January 31, 2003; and a seminar on intellectual property on May 16, 2003.

Each division of the Court also organized programs of particular interest to the judges of that division. The Trial Division held a seminar on class proceedings on October 18, 2002 and the Appeal Division held a seminar on the anti-avoidance provision of the *Income Tax Act* on November 29, 2002.

Judges of the Court also attended other conferences authorized by the Canadian Judicial Council under the *Judges Act*.

3.3 Consolidation of Administrative Services

On June 25, 1998, the Minister of Justice announced proposed structural reforms in respect of the Federal Court of Canada and the Tax Court of Canada:

“Proposals include the consolidation of the current administrative services of the two courts into a single Courts Administration Service, the creation of a separate Federal Court of Appeal and an increase in the status of the Tax Court to that of a superior court.”

These proposals respond, in part, to the 1997 Auditor General’s *Report on the Federal Court of Canada and Tax Court of Canada*. Serious consideration was given to all of the Report’s recommendations. Together, the proposed reforms aim to improve the coordination in the administrative management of the Federal Court of Canada and the Tax Court of Canada and will render both courts more efficient and effective while fully respecting their independence.

On September 18, 2001, the Minister of Justice and Attorney General of Canada tabled Bill C-30, the proposed *Courts Administration Service Act*, in the House of Commons. On March 27, 2002, Bill C-30 received Third Reading and Royal Assent.

The *Courts Administration Service Act* S.C. 2002, c.8 was promulgated on May 22, 2003 by the Governor General in Council and will come into force on July 2, 2003. The Chief Administrator of the Courts Administration Service, effective July 2, 2003, will be Robert M. Emond.

This legislation amends the *Federal Court Act* to create two separate courts, the Federal Court of Appeal and the Federal Court, from the existing two divisions of the Federal Court of Canada. It also changes the status of the Tax Court of Canada to that of a superior court and establishes a single administrative structure (the Courts Administrative Service) for the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada and the Tax Court of Canada.

According to the *Courts Administration Service Act* (article 2), the mandate of the Courts Administration Service is to:

- a) facilitate coordination and cooperation among the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada and the Tax Court of Canada for the purpose of ensuring the effective and efficient provision of administrative services to those courts;
- b) enhance judicial independence by placing administrative services at arm's length from the Government of Canada and by affirming the roles of chief justices and judges in the management of the courts; and,
- c) enhance accountability for the use of public money in support of court administration while safeguarding the independence of the judiciary.

3.4 Visitors to the Court

The Court received official visitors throughout the year and has hosted several open houses and symposia. Visiting dignitaries and judges offer a meaningful exchange of ideas and issues affecting the judiciary from different global regions. Open communication between judiciaries heightens knowledge and sensitivity towards multiculturalism within our society. It also allows Canadian and international judges to examine different judicial systems

and initiatives in order to ascertain the best practices for possible implementation.

On June 25, 2002 the Associate Chief Justice and the Honourable Mr. Justice MacKay met with three visiting judges from Australia, Uganda and Papua New Guinea.

Other visiting dignitaries who met judges of the Court included: Judge Rosa H.M. Jansen of the Netherlands who met the Honourable Madam Justice Sharlow on September 10, 2002 and a Russian delegation which was received by the Honourable Mr. Justice Rothstein on November 7-8, 2002 and who were given a tour of the Ottawa Registry. Court officials from Nunavut also met with Registry officials on July 3, 2002 to learn more about the Federal Court's case management system.

Moreover, there were two Chinese delegations, the first of which was received on July 8, 2002 by the Chief Justice and the Honourable Mr. Justice Décary in Ottawa, Ontario. Members of this delegation then visited the Vancouver Local Office where they were received by the Honourable Madam Justice Tremblay-Lamer and Prothonotary Mr. Hargrave. On October 17, 2002, the second Chinese delegation was received in the Toronto Local Office and given a tour of the Registry and its premises.

To promote information sharing and to heighten public awareness of the Federal Court and its Registry, several open houses were organized at offices across the country. The participating offices were: Fredericton, New Brunswick on June 11, 2002; Winnipeg, Manitoba on October 9, 2002; and, Charlottetown, Prince Edward Island on October 15, 2002. A further two open houses were held on May 1, 2003 in Ottawa, Ontario and on May 22, 2003 in Saskatoon, Saskatchewan. The latter open house also honoured the Honourable Mr. Justice Isaac who will be retiring from the Federal Court of Appeal on July 18, 2003.

In addition, the Court and its Registry, in collaboration with the local bar, also held a Symposium/Colloque in Montréal, Québec on April 16, 2002. The Montréal Local Office hosted another Symposium/Colloque on March 18, 2003 where the theme was Judicial Reviews before the Federal Court of Canada.

4.0 VOLUME AND PACE OF LITIGATION

4.1 Delay Reduction Programme Update

In 1992, the Court established a Delay Reduction Programme (DRP) consistent with recommendations made by the Canadian Judicial Council (CJC) in its report released in August of that year. As a first step, a computer accessible inventory of all litigation pending in the Court was created. A review of that inventory was completed on August 31, 1997.

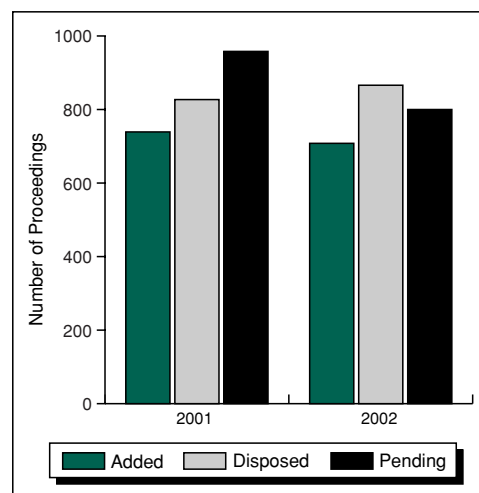
The second step of the DRP was the introduction of case management principles, including time standards into the *Federal Court Rules*. The Rules Committee began a comprehensive review of the *Federal Court Rules* in 1992. In 1995, the Canadian Judicial Council approved targeted time standards for superior trial courts and courts of appeal as proposed objectives for the pace of litigation, subject to the availability of human and physical resources. As part of the DRP, the Court ensured that standards in the *Federal Court Rules, 1998*, which came into effect on April 25, 1998, were consistent with the standards adopted by the Canadian Judicial Council.

Since the coming into force of the *Anti-terrorism Act* on December 24, 2001 and the *Immigration and Refugee Protection Act* on June 28, 2002, there has been a significant increase in immigration proceedings. From January to May 31, 2003 there has been an increase of 62% in new files opened in comparison to the same five month period in 2002.

4.2 Volume of Litigation in the Court of Appeal

Figure 1 illustrates the size of the inventory of proceedings pending in the Court of Appeal at the end of 2001 and 2002, together with the number of proceedings added to the inventory and disposed of each year.

Figure 1: Court of Appeal Proceedings added to/disposed of from Inventory as of December 31, 2002



There were 958 proceedings pending in the Court of Appeal on December 31, 2001. Of this amount, 708 proceedings were added to the inventory during 2002 and the Court disposed of 866 proceedings, leaving 800 proceedings pending at the end of 2002.

Figure 2: Court of Appeal Profile of Proceedings Pending as of December 31, 2002

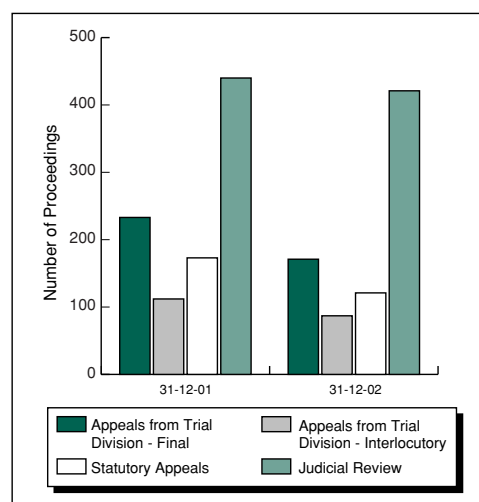


Figure 2 profiles, by major subject area, the proceedings pending in the inventory at the end of 2001 and 2002. As of December 31, 2002, the inventory comprised 258 appeals from the Trial Division: 171 were from final orders and 87 appeals were from interlocutory orders. The remainder of the inventory consisted of 421 applications for judicial review and 121 statutory appeals.

4.3 Pace of Litigation in the Court of Appeal

Commencement to Judgment

In 2002, the median time for all proceedings from commencement to judgment was 13.8 months, down considerably from 17.0 months in 2001.

The median time periods in 2002 by subject area were as follows:

- Appeals from Trial Division - Final Orders 13.9 months
- Appeals from Trial Division - Interlocutory Orders 9.2 months
- Statutory Appeals 13.9 months
- Applications for Judicial Review 14.8 months

Status of Pending Inventory

Figure 3: Federal Court of Appeal Status of Pending Inventory as of December 31, 2002

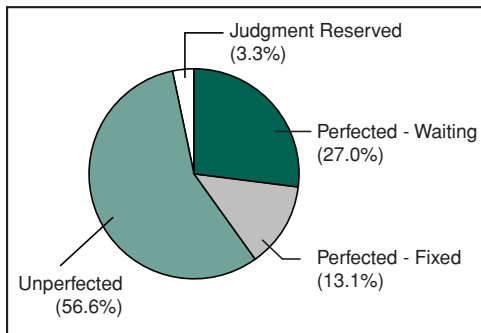
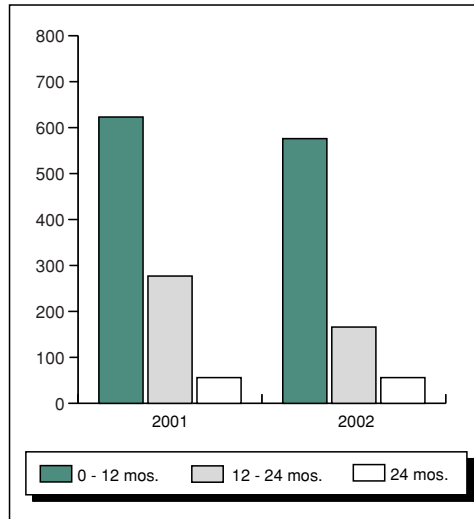


Figure 3 shows the status of the pending inventory on December 31, 2002. Of the 800 cases pending, 321 (40%) had been perfected for hearing. Of these, 105 had been assigned fixed hearing dates, leaving 216 to be fixed for hearing; 27 judgments (3.3% of all cases) were under reserve; and, 452 cases (56.6%) remained unperfected at the end of the year.

The number of cases which were ready for hearing but for which a hearing date had not been assigned by December 31, 2002 was 216, down from 300 on December 31, 2001.

Age of Pending Inventory

Figure 4: Federal Court of Appeal Distribution of Inventory by Age as of December 31, 2002



The age of the pending inventory at the end of 2001 and 2002 is illustrated in Figure 4. The number of pending cases over two years old remained constant at 56 on December 31, 2001 and on December 31, 2002. (This amounted to 5.8% of the pending inventory on December 31, 2001 and 7.0% of the pending inventory on December 31, 2002.) This continues to be an improvement since December 31, 1994 when 1,138 cases (57% of the inventory) were over two years old.

4.4 Volume of Litigation in the Trial Division

New Proceedings Commenced

Proceedings in the Trial Division comprise two major categories: litigation and administrative proceedings, of which litigation forms the main workload. Litigation has been categorized according to seven broad subject areas: Admiralty, Aboriginal Law, Crown Litigation, Judicial Review, Intellectual Property and Statutory Appeals/Applications form the six main "Non-Immigration" subject areas; Immigration proceedings form the seventh category.

The second category, administrative proceedings, arises from provisions in a number of federal statutes which provide for the filing of certificates, decisions or

orders of federal boards, commissions or other tribunals, giving them the same force and effect as judgments of the Federal Court - Trial Division. These are mainly dealt with by Registry Officers and are reported in Part 5.

Figure 5: Trial Division Proceedings added to/disposed of from Inventory as of December 31, 2002

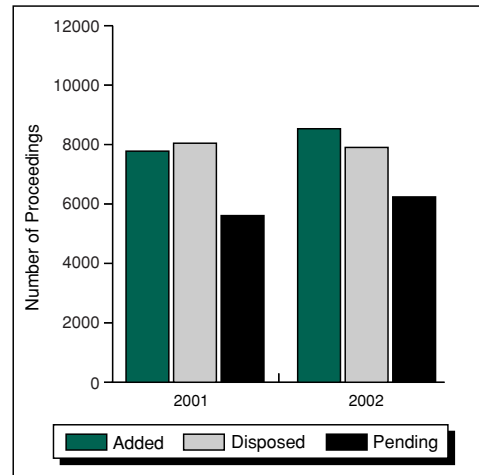


Figure 5 shows there were 5,609 proceedings pending in the Trial Division as of December 31, 2001. Of this amount, 8,532 proceedings were added to the inventory during 2002 and the Trial Division disposed of 7,903 proceedings, leaving 6,238 proceedings pending at the end of 2002.

In 2001, the Non-Immigration component of the pending inventory was 3,058. The Non-Immigration pending inventory increased by 78 proceedings in 2002 to 3,136.

The Immigration component of the 2001 pending inventory was 2,551. In 2002 that number increased by 551 to 3,102.

Figure 6: Trial Division New Proceedings Commenced as of December 31, 2002

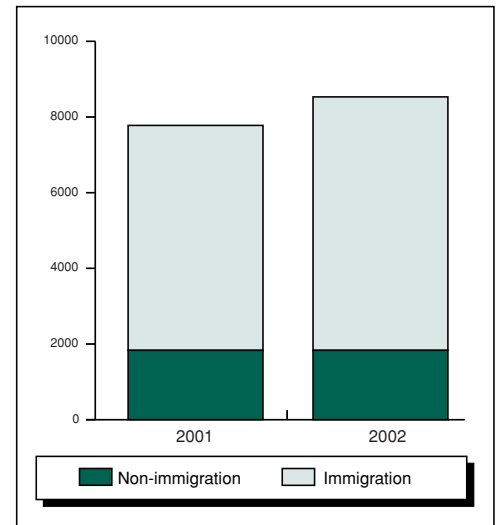


Figure 6 illustrates the number of new proceedings commenced in 2001 and 2002, with Immigration proceedings shown separately from all other proceedings.

In the Non-Immigration subject areas, the number of new proceedings numbered the same, at 1,833, in 2001 and 2002.

The Immigration component has continued to rise since 1995. In that year, 3,631 new Immigration proceedings were commenced. That number was 5,945 in 2001, and rose to 6,699 in 2002. (The number of new Immigration proceedings instituted from January 1, 2003 to May 31, 2003 was 4,078.) Further yearly increases are expected as a result of the passage of the *Immigration and Refugee Protection Act (IRPA)*. This *Act* changed the procedure for applications challenging visa officer decisions. As of June 28, 2002, these types of proceedings require leave of the Court to obtain a full hearing.

The number of visa officer judicial reviews commenced in 2001 was 713 while up to June 27, 2002, prior to the enactment of the *Immigration and Refugee Protection Act*, that number was 534. The number of leave application procedures rose from 5,229 in 2001 to 6,164 in 2002. (From January 1, 2003 to May 31, 2003 the number of leave application procedures amounted to 4,069.)

**Figure 7: Trial Division
Profile of Pending Inventory as of
December 31, 2002:**

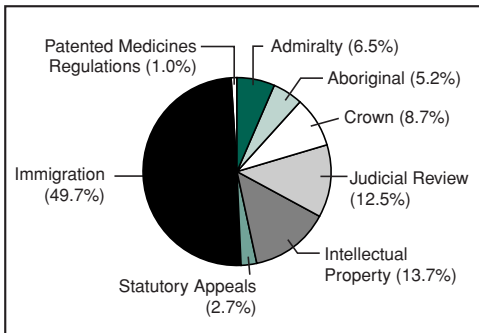


Figure 7 profiles the December 31, 2002 pending inventory by major subject area:

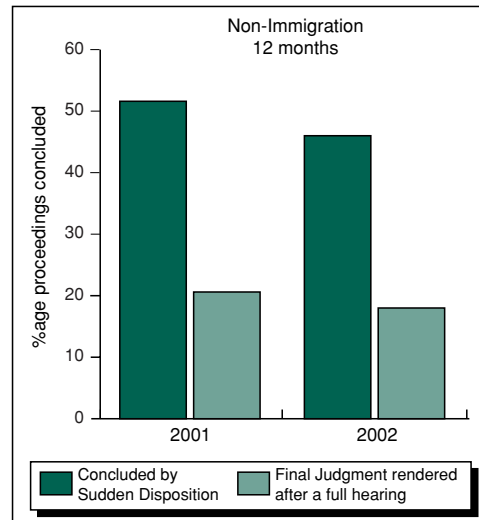
| | | |
|---------------------------------------|-------|---------|
| Admiralty | 406 | (6.5%) |
| Aboriginal Law | 325 | (5.2%) |
| Crown Litigation | 541 | (8.7%) |
| Judicial Review | 780 | (12.5%) |
| Intellectual Property | 854 | (13.7%) |
| Statutory Appeals and Applications | 170 | (2.7%) |
| Immigration | 3,102 | (49.7%) |
| Patented Medicines Regulations | 60 | (1.0%) |

It should be noted that Patented Medicines Regulations cases numbered 28 in 2001 whereas in 2002 the total of such cases was 60. Although relatively small in number, these cases can be demanding of judicial resources.

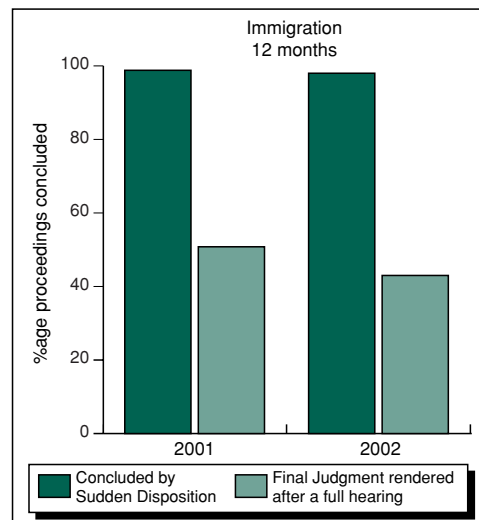
4.5 Pace of Litigation in the Trial Division

Commencement to Disposition

**Figure 8: Trial Division
Percentage of dispositions within 12
months of commencement (Excluding
Immigration) as of December 31, 2002**

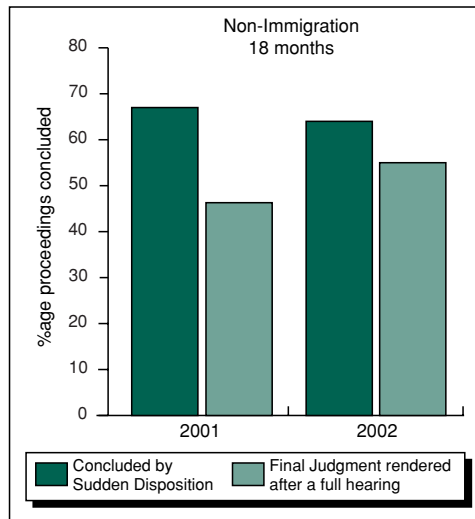


**Figure 9: Trial Division
Percentage of dispositions within 12
months of commencement
(Immigration) as of December 31, 2002**

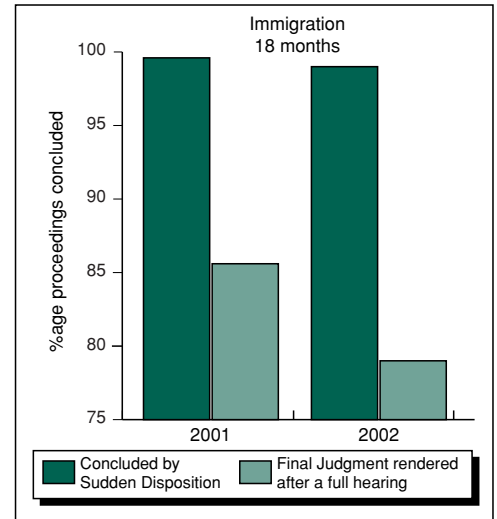


Figures 8 and 9 sample the cases in which dispositions were recorded in 2001 and 2002 and set out the percentage of these dispositions which occurred within 12 months of commencement. Figure 8 samples the dispositions in Non-Immigration proceedings while Figure 9 samples dispositions in Immigration proceedings only. Each chart distinguishes between the percentage of proceedings concluded by final judgment rendered after a full hearing (FJR) and those concluded by sudden disposition (SDD) such as by settlement, discontinuance, dismissal for delay or the refusal of the Court for leave to commence a proceeding.

**Figure 10: Trial Division
Percentage of dispositions within 18 months of commencement
(Excluding Immigration)
as of December 31, 2002**

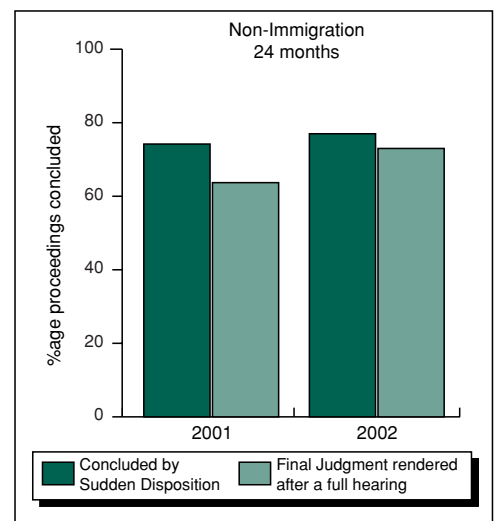


**Figure 11: Trial Division
Percentage of dispositions within 18 months of commencement
(Immigration)
as of December 31, 2002**

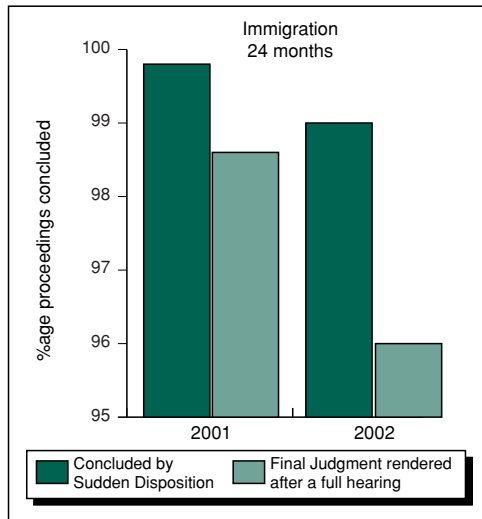


Figures 10 and 11 compare the percentage of dispositions which occurred within 18 months of commencement.

**Figure 12: Trial Division
Percentage of dispositions within 24 months of commencement
(Excluding Immigration)
as of December 31, 2002**



**Figure 13: Trial Division
Percentage of dispositions within 24 months of commencement
(Immigration)
as of December 31, 2002**



Figures 12 and 13 compare the results of dispositions in the Court within 24 months of commencement.

As figures 9, 11 and 13 illustrate, in Immigration proceedings where leave is granted, or in Immigration proceedings for which leave is not required, 91% were concluded within 12 months of commencement in 2002. This percentage increased to 97% within 18 months of commencement and 99% within 24 months of commencement.

Status of Pending Inventory

**Figure 14: Trial Division-
Status of Pending Inventory as of
December 31, 2002
(Excluding Immigration)**

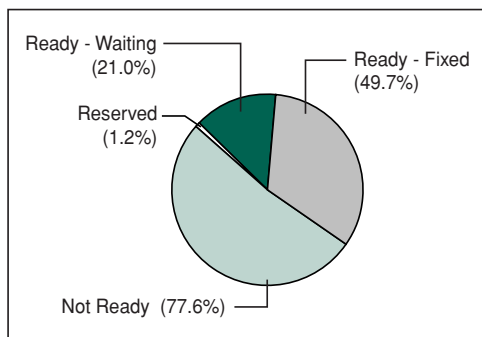


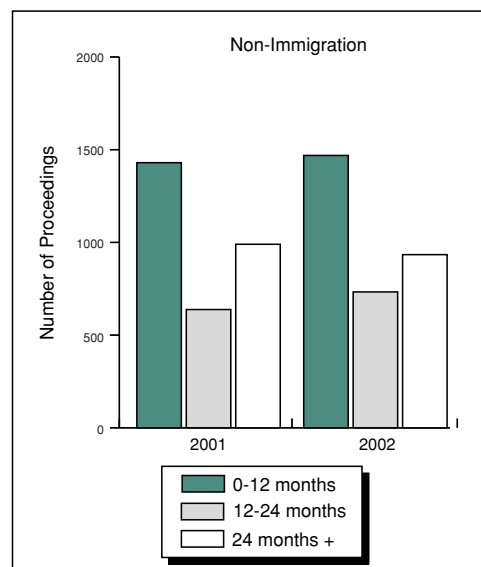
Figure 14 shows the status of the inventory of Non-Immigration proceedings pending at year end. 37 (1.2%) judgments were under reserve and 657 (21%) cases were ready but not yet heard. Of these, 156 (49.7%) had been assigned fixed hearing dates, 129 (41.1%) were consolidated files and 16 (0.5%) were in dispute resolution leaving 356 (11.3%) to be fixed. Finally, 8 (0.25%) cases were in the trial process. Of the 3,136 cases in the inventory, 2,434 (77.6%) were not ready for hearing.

On December 31, 2002, the inventory of Immigration proceedings pending in the Trial Division stood at 3,102, of which 2,649 were applications for leave and for judicial review. Of the 3,102 judgments, 69 judgments (2.2%) were under reserve and 421 proceedings were ready but not yet heard. Of this latter number, 300 were fixed for hearing and 121 were still to be fixed. 434 leave applications were awaiting their leave determination and 2,178 proceedings, including 1,969 applications for leave and for judicial review, were not ready for hearing.

Age of Pending Inventory

Figure 15 illustrates the age of the pending inventory of Non-Immigration proceedings on December 31 of 2001 and 2002.

**Figure 15: Trial Division-
Age of Pending Inventory as of
December 31, 2002
(Excluding Immigration)**



On December 31, 1993, 52% of proceedings in the pending inventory (4,381 proceedings) were over two years old. This number had increased to 72% (6,602 proceedings) by December 31, 1997. With the introduction of the *Federal Court Rules, 1998*, status reviews were conducted to identify which of these older proceedings were still active and to issue orders dismissing those which were not. As a result of the status review procedure, the number of pending proceedings over two years old was reduced to 4,406 (60%) as of December 31, 1998. The number of pending proceedings over two years old decreased further to 934 (30%) as of December 31, 2002.

**Figure 16: Trial Division-
Age of Pending Inventory as of
December 31, 2002
Immigration Proceedings Only**

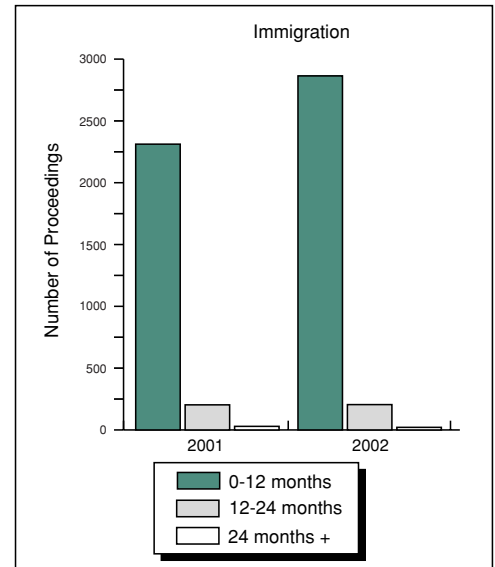


Figure 16 shows that the vast majority of Immigration proceedings pending on December 31 of 2001 and 2002 were less than 12 months old.

5.0 REGISTRY ACTIVITY

5.1 Overview

The Registry provides the support necessary for the resolution of Court proceedings and the enforcement of decisions. The Registry strives to ensure that all persons have access to justice without undue hardship, delay or inconvenience. This follows from the statement in Rule 3 that the *Federal Court Rules, 1998* “be interpreted and applied so as to secure the just, most expeditious and least expensive determination of every proceeding on its merits”.

Principal responsibilities of the Registry are outlined in Part 2 of the Rules pertaining to administration of the Court. These are: the requirements for offices of the Court, the maintenance of records and filing of documents, the arrangements for and conduct of Court sittings, and the provision of public access to the Court’s records.

All activities and communications between the Court and litigants, or their counsel, flow through the Registry. Designated officers of the Registry perform such quasi-judicial functions as the assessment of costs, assessment of damages, arrests of ships, cargo and freight in admiralty cases, and the preparation of schemes of collocation in accordance with the *Civil Code of Québec*. Staff of the Registry have similar responsibilities in relation to the Court Martial Appeal Court of Canada.

5.2 Accommodations

In accordance with federal government initiatives to further enhance efficiencies, the Registry is currently undertaking various joint building projects in Ottawa, Ontario and in Toronto, Ontario that will contribute to long-term cost savings and greater public access to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada and the Tax Court of Canada.

Ottawa Principal Office

Since 1989, the Registry’s principal office of the Federal Court of Canada has been distributed throughout five different premises in the National Capital Region.

The need for suitable accommodations for the Court in Ottawa has been an increasingly pressing issue as growth of the organization continued to crowd existing accommodations. Registry staff continue to work from various locations.

Plans for a building to house the Federal Court received Preliminary Project Approval from Treasury Board Ministers in February 1990. Public Works Government Services Canada (PWGSC) studied options to accommodate the Federal Court of Canada in one location in Ottawa. A revised Preliminary Project Approval was authorized by Treasury Board Ministers at meetings held on April 11 and 18, 2002 to proceed with the definition of a project to construct the Federal Judicial Building in Ottawa.

On May 8, 2002, the Minister of Justice and Attorney General of Canada, the Honourable Mr. Cauchon and the former Minister of Public Works and Government Services Canada (PWGSC) and Receiver General for Canada, the Honourable Mr. Boudria announced the government’s approval of the Federal Judicial Building in the National Capital Region which will be situated in St. Laurent Square, west of the Supreme Court Building. With the adoption of the *Courts Administration Service Act*, the proposed building will house the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada and the Tax Court of Canada as well as the Courts Administration Service.

In conjunction with the Tax Court of Canada and Public Works and Government Services Canada, the Registry of the Federal Court’s Project Team is presently reviewing concept designs for the new Federal Judicial Building. As an interim measure, the Federal Court of Appeal will be moving their offices from the Supreme Court of Canada Building to the Thomas D’Arcy McGee Building in 2003, with the understanding that progress on the Federal Judicial Building will continue within reasonable time limits.

Despite the additional capital spending required for this move, the Registry will strive to ensure that its current high standard of service is maintained both to the public and to the judges of the Court.

**Ontario Region:
Toronto Local Office**

Since 1971, the Toronto Local Office has leased space in the Canada Life Building, located at 330 University Avenue. In 2000 the landlord, Canada Life, gave notice that no lease extensions to the Federal Court of Canada would be contemplated since it would require this space for its own employees. Consequently, the Court and its Registry must relocate by August 31, 2005.

With approval from Treasury Board, given on January 30, 2003, the Registry of the Federal Court and the Tax Court of Canada have undertaken to find a suitable site for the future Toronto federal courts' building project.

The lease tender package was sent to four qualifying bidders. The successful bidder, Canada Life, was notified in May 2003.

**Western Region:
Vancouver Local Office**

The Federal Court of Canada and the Tax Court of Canada have collocated in Vancouver since 2000. The Vancouver Local Office has been able to accommodate the needs of the Tax Court of Canada by providing an additional judge's chamber and a small hearing room, as an interim measure.

The Vancouver Local Office was also able to accommodate Citizenship and Immigration Canada (CIC)-British Columbia/Yukon Regions for temporary space for Citizenship Court. This saved CIC approximately \$200,000 in fit-up costs and rent, while at the same time allowing them to provide continued quality service to their clients. As a result of this horizontal initiative, CIC managed to conduct 8,004 testing of Canadian Immigrants, granted citizenship to 8,815 new Canadians and held 538 Citizenship hearings.

Edmonton Local Office

The Edmonton Local Office of the Federal Court of Canada was able to accommodate a complex Aboriginal trial. This trial is ongoing and it is projected to take a year to complete. Due to anticipated hearings in Edmonton, mainly Aboriginal trials, the Registry will have to review the need for expansion space in order to accommodate the Court's projected schedule of hearings.

Leases and expansion space will have to be reviewed in Vancouver, Edmonton, Calgary and Winnipeg in order to meet operational and security requirements.

Furthermore, participation from the Court and its Registry will be forthcoming concerning the construction of a new provincial court house in Saskatoon, Saskatchewan.

**Québec and Atlantic Region:
Montréal Local Office**

The Montréal Local Office, located at 30 McGill Avenue, occupies a single building. The upcoming consolidation of the administrative services of the Registry of the Federal Court of Canada and the Tax Court of Canada will require a reorganization of the premises in order to suit the needs of the courts and the Courts Administration Service.

Québec Local Office

The Québec Local Office will be signing a short-term lease for the premises it currently occupies. This lease will expire on November 30, 2004. PWGSC will have to commence negotiations with La Société Immobilière du Québec for a long-term lease and additional contiguous space next to the office's existing premises.

Fredericton Local Office

Negotiations for a long-term lease are ongoing with the landlord of the existing premises. The current lease is due to expire in December 2005.

Halifax Local Office

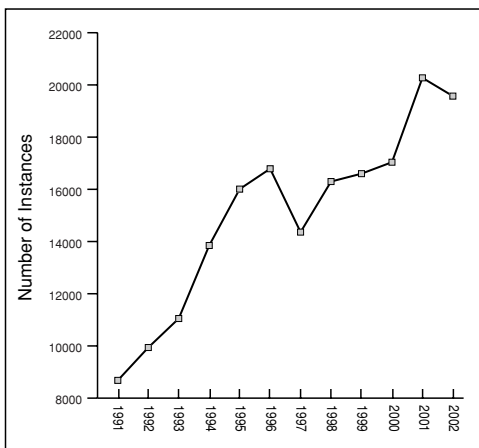
Although the lease at the Halifax Local Office is to expire in February 2006, additional space requirements are a pressing issue.

5.3 Administrative Proceedings

Provision is made in federal statutes for the filing of certificates, decisions or orders of federal boards, commissions or other tribunals in the Federal Court (Trial Division). Once deposited with the Registry, these "administrative proceedings" have the force and effect of a judgment of this Court. As these proceedings are dealt with principally by the Registry, they do not form part of the Court's Delay Reduction Programme (DRP) inventory.

Figure 17 shows that the number of these proceedings, which began an upward trend in 1991 with 8,610 cases, increased to 16,682 cases in 1996. Even though there was a decrease in the number of these cases in 1997 to just over 14,000 cases, by 2000 17,039 cases had been instituted and this total increased in 2001 to 20,271 proceedings. In 2002 these proceedings dropped slightly to 19,562 (or 3.5% from 2001), however, the upward trend is still evident.

Figure 17: Administrative Proceedings Commenced



5.4 Case Management

Case management, which was incorporated into the new *Federal Court Rules, 1998* on April 25, 1998, is the coordination of Court processes and resources intended to move cases in a timely manner from commencement to disposition, regardless of the type of proceedings. It involves the active supervision by the Court of the progress of cases and introduces new supervisory activities such as status reviews, dispute resolution services, trial management conferences and specially managed proceedings.

Since 1998, the Registry has utilized an integrated system of advanced technological components and support services which combine to provide the Court with a comprehensive, automated case management system. This system includes a computerized case inventory package (called the Delay Reduction Programme - DRP) to measure and report on elapsed time between events in the litigation process; an automated scheduling

system (called the Case Scheduling Module - CSM) for assignment of cases, judges, court facilities and personnel; an automated docket recording system (called the Proceedings Management System) with enhancement for inclusion of non-automated records; teleconference and video-conference facilities; remote document filing by fax; a statistical retrieval package; and, an electronic communication software (*GroupWise*).

These integrated systems place the Registry at the forefront of the automated case management field. They enable the Court to meet its goals and objectives of case management and assist the Registry in optimizing limited resources to meet increasing demands for its services.

5.5 Technology Initiatives

The electronic filing (e-filing) project continues to be a priority for the Court and its Registry. During the past year this project has progressed. With the Registry's ongoing partnership with Quicklaw Canada and the Electronic E-Filing Project Advisory Committee (EPAC), new templates have been developed and are currently being reviewed and tested for quality standards.

Several new technological projects were initiated in 2002-03. For example, in preparation for e-filing and to foster public confidence in using technology in the courtroom, Informatics completed the first phase of the migration of the router to a secure channel network (SCNet). SCNet is an integral step to ensure secure lines so that sensitive information is not intercepted by random users. Updated networking equipment was also installed to increase bandwidth capability allowing staff greater access and faster retrieval of electronic information. An increase in bandwidth is also crucial for the implementation of the e-filing project to facilitate in the transmission and receipt of electronic documents.

Furthermore, in 2002 a large land claims trial commenced in Edmonton, Alberta and is currently ongoing. Electronic evidence display, real-time court reporting and closed circuit television for public viewing were employed. These technologies helped to accommodate voluminous documentary exhibits, counsel representing

multiple parties and interested members of the public in a relatively small courtroom.

The Electronic Evidence Display System consists of flat panel monitors for the judge, his/her research assistant, the court registrar, the court reporter, all counsel and the witness stands. The majority of documentary evidence was pre-scanned into Adobe PDF (Portable Document Format) by counsel for all sides and forwarded to the Registry for inclusion in an image database system.

The image database system is controlled by the court registrar so that exhibits may be called up instantaneously and displayed on all monitors simultaneously. The judge and research assistant each have a copy of the electronic image database for their own use and annotation on portable notebook computers, for use inside and outside of the courtroom. To display exhibits that may not have been previously scanned, a document camera is available and counsel have the ability to connect their notebook computers to the Evidence Display System.

Real-time court reporting is also being used in this trial. In this way, the judge, counsel and all court staff can accept real-time feed via their own notebook computers. The judge on this trial has utilized the capabilities of the real-time software to link exhibits directly to certain points within the transcript itself. These links can assist in the recollection of certain testimony and corresponding exhibits and in the process of writing Reasons for Judgement.

Furthermore, to allow as many people as possible to attend the trial, closed circuit television was utilized to feed audio and video to an overflow room with temporary seating.

Although formal feedback has not been received from the participants of this trial, informal feedback indicates that the technology utilized in this trial has greatly facilitated its progression.

In addition, as part of modernizing technology in the government, several short-term projects were undertaken in mid-2002. The first objective was to improve hardware by fitting new desktop (Mind Pentium 4) and flat panel screens,

and laptop computers (Dell C610) so that all users could receive the same rate of efficiency when using core programs (e.g. GroupWise, Wordperfect 9.0). Docking stations with separate flat panel monitors and external TBITS keyboards were also installed. These external features assist in providing ergonomic comfort to judges and Registry employees. Moreover, a new operating system, Windows XP Professional, was installed. This replaced Windows '95 which is no longer supported by most software vendors and cannot support some applications.

Another internal initiative, undertaken by the Informatics Section, was an intensive upgrade in the groupware system to improve communication between the judiciary and the Registry staff. As court cases involve more complex issues, technology must meet the demand to provide spontaneous access to information across the country between the judiciary and the Registry. Some features of GroupWise 6.0 are remote and cache modes that make it easier for internal users to log onto the system when working away from the office. The Court and its Registry have also upgraded to Netscape 7.0 which offers more options for e-mail and internet capabilities that can lead to an increase in productivity by saving time during the research and development of projects. The Informatics Section continues to provide internal technical support to the judges and to the Registry staff concerning all software and hardware technologies.

In 2003, the Court anticipates continued advances in the development and implementation of courtroom technology, on-line reference tools such as public access to certified questions in immigration proceedings and, possibly, the release of reasons via the internet when requested by the parties.

Infrastructure and Corporate systems

i) Human Resource Information System - HRIS

HRIS is a government approved shared system which was implemented by Informatics and Human Resources services in 2001. Human Resource staff have continued to input information into this

system so that the existing Human Resources system, HRMIS, can be phased out. The new system offers better reporting and human resources planning capabilities, increased access to historical information and working tools for managers and staff. It is also supported by an organization that is funded by Treasury Board.

ii) *Salary Management system - SMS*

SMS is a government approved system which was implemented by Informatics and Financial services in 2001. SMS replaces the antiquated HR Planner from FreeBalance Corporation. SMS provides better reporting facilities and allows greater access to information and tools by management and staff.

In 2002, a FIT Gap Analysis was conducted to determine whether SMS and HRIS can interface together so that corporate services can share information between different sections. As a corollary, this Analysis will help Financial services to determine whether a new version upgrade is necessary to meet the Registry's needs.

iii) *FreeBalance Financial Management System - FMS*

FMS, a government approved system, underwent a number of upgrades in 2002 to ensure Intranet access so as to promote information sharing between Informatics and Finance. The implementation of Oracle database upgrade patches assisted FMS and SMS software to interface more smoothly, while allowing the Registry to remain current with Oracle standards and certification.

2002 was a preparation year for the implementation for certification of a new database in 2003-2004. The system required reconfiguration in order to chart accounts for the year- end reporting requirements at PWGSC, as well as to standardize the system with that of the Tax Court of Canada.

iv) *Trust Account System (In-house)*

During 2002-03, Finance and Informatics tested, upgraded and debugged several aspects of the Trust Account System to ensure minimal error rates.

v) *Information Management Systems*

In July 2002, the Administrator of the Court approved the Administrative Records Management Project to ensure that the Registry's administrative records are managed for access and accountability. A comprehensive information management program is being implemented in the Registry, through the development of an Information Classification System and the introduction of records scheduling, retention and disposition guidelines. A preliminary inventory of administrative records and a draft Information Classification Scheme were completed in fiscal 2002-03.

Information is a key corporate resource. Improving access to Registry records and sharing knowledge among staff will ensure greater overall effectiveness and efficiency of Registry programs and services to Canadians.

Also in 2002-03, Administrative Services arranged for the cleaning and conservation of Exchequer Court of Canada files related to the loss of the steamship *The Empress of Ireland* in 1914. The Court documents are on loan to the Musée de la Mer in Rimouski Québec for an exhibit opening in June 2003. The transfer of documents was made possible through a partnership with the Archives of the Université du Québec à Rimouski, and through consultation with the Loans and Exhibition experts of the Archives and Library Canada (formerly the National Archives of Canada).

5.6 Registry

The Registry Officer Development Program (RODP) was introduced in the fall of 2000 to address the developmental needs of Registry support staff.

The RODP is a two-year development program that recruits candidates at the PM-D level and allows successful candidates to be promoted to the PM-03 level at the end of the program. Approximately 36 candidates were accepted into the program. It has proven to be highly effective, not only in recruiting but in retaining qualified individuals.

A review of the Registry Officer Development Program was conducted in the summer of 2002 by the RODP Working Group and the training modules are currently being revised, while the learning objectives and assessment tools are being updated.

Furthermore, an orientation to the Registry Officer Development Program was offered to select students registered in the Court and Tribunal Administration Program at Seneca College in Toronto, the *Techniques Juridiques* program at Ahuntsic College in Montréal, the Law Clerk Program at Algonquin College in Ottawa and the Legal Assistant Program at Vancouver Community College in Vancouver. The aim of this program is to expose college students to employment possibilities in the courts administration system generally but also to serve as a recruitment pool for the Registry's RODP.

The Registry of the Federal Court of Canada's achievements are noteworthy in creating a workplace conducive to employment equity. The Registry continues to heighten the awareness of Aboriginal and Inuit cultures through attendance of staff at Indian and Northern Affairs Canada (INAC) awareness sessions. Concrete measures have been taken to integrate designated group members at the recruitment stage through participation in career fairs intended for employment equity designated groups. There is good representation of women, aboriginal peoples and persons with disabilities. Efforts continue regarding increasing

representation of visible minorities in accordance with the *Embracing Change Action Plan* of the Task Force on the Participation of Visible Minorities in the Federal Public Service.

As of March 31, 2003, out of a total workforce of 458 Registry employees, the representation of designated groups was:

332 women (72%)

29 persons self-identified with disabilities (6%)

41 employees self-identified as visible minorities (9%)

10 self-identified persons of the aboriginal group (2%)

In 2002, the Registry of the Federal Court entered into a partnership with the Supreme Court of Canada in an external recruitment initiative for judicial assistants with regards to the screening and assessment of candidates. As the two organizations have similar business lines and structures, this initiative proved beneficial as the same potential pool of candidates was targeted. Successful candidates were offered positions with both the Supreme Court of Canada and the Federal Court of Canada. A similar initiative is planned for fall 2003 with both the Supreme Court of Canada and the Tax Court of Canada.

It should be noted that all buildings accommodating the offices of the Federal Court of Canada are wheelchair accessible and most elevators have been equipped with braille coding and audible floor indicators. Hearing and speech impaired clients communicate with the Registry through TDD access in the National Capital Region and in all federally- staffed local offices. Special assistive devices such as telephone volume amplifiers, telecommunication devices for hearing and speech impaired (TDD and TYY) and enhanced computer equipment have been provided for employees and judges requiring these devices. The Registry encourages its employees to access the Enabling Resource Centre at the Public Service Commission to view available equipment to assist employees with disabilities.

With respect to Official Languages, the Registry's Official Languages Champion participated at interdepartmental meetings to discuss the advancement of the provisions of the *Official Languages Act* in terms of public access to government services and rights and responsibilities of managers and employees. There were no complaints received by the Commissioner of Official Languages with respect to the Court or Registry in the past year. Although data is usually provided in this report reflecting proportions of bilingual positions in the Registry, at the time of printing, this data was not available. Due to the conversion project involving the human resources information management system, verification of official languages data is being completed and will be reported to the Commissioner of Official Languages later this month.

In 2002, a pilot project was conducted providing French classes at noon hour for employees seeking the B and C levels. Subject to available funding, plans are under development for a broader implementation of a language training program.

The Registry of the Federal Court is committed to ensuring that employees are provided with training, development and learning opportunities to fulfill the organization's mission and job requirements, within the wider context of Public Service values and principles.

During 2002-03, the Learning Needs Analysis Project continued at the principal and regional offices across the country. This project aims to empower employees to set career goals while allowing management to respond to existing or future needs. In March 2003, an analysis of the findings and learning requirements commenced with a view of incorporating them in the Registry's Human Resources Plan. It is projected that by July 2003 all employees who wish to have a personal learning plan will have such an opportunity.

As part of the Registry's commitment to individual and collective goals, an Orientation Guide has been developed to facilitate the transition of new employees into the organization. The draft Guide has been sent to Senior Management and Union representatives for their comments and the revised Guide should be available in both official languages by the end of June 2003.

Furthermore, significant progress has been made concerning the modern management initiative which is one of the key priorities set out by the Government of Canada to modernize management practices for the 21st century.

5.7 Financial Management

Details of the programmes and financial performance of the Registry are published in the Main Estimates tabled in Parliament and in the Registry's annual Performance Report to the Treasury Board Secretariat (TBS). Copies of the Estimates are available from the Canada Communications Group or from Associated Bookstores. The following is a summary:

| (thousands of dollars) | Main Estimates 2003-04** | Main Estimates 2002-03 | Actual 2001-02 |
|---|-----------------------------|---------------------------|-------------------|
| Personnel | | | |
| Salaries and wages | 22,835 | 23,039 | 24,088 |
| Contributions to employee benefit plans | 4,567 | 4,608 | 4,132 |
| Sub-total | 27,402 | 27,647 | 28,220 |
| Goods and Services | | | |
| Transportation and communications | 1,785 | 2,274 | 2,131 |
| Information | 103 | 239 | 128 |
| Professional and special services | 4,217 | 5,027 | 4,970 |
| Rentals | 365 | 479 | 429 |
| Purchased repair and upkeep | 701 | 479 | 903 |
| Utilities, materials and supplies | 1,165 | 1,676 | 1,498 |
| Minor capital* | 2,474 | 1,796 | 3,176 |
| Other subsidies and payments | | | 2 |
| Sub-total | 10,810 | 11,970 | 13,237 |
| Total Requirements | 38,212 | 39,617 | 41,457 |

* Minor capital is the residual after the amount of controlled capital has been established. In accordance with the Operating Budget principles, these resources would be interchangeable with Personnel and Goods and Services expenditures.

**N.B. \$4.6M was provided to the Registry under Program Integrity II Funding. However, this was only for two fiscal years. The sunset date was March 31, 2003. Since the fall of 2002, the Registry has been seeking approval for ongoing funding. This has not yet been approved by Treasury Board Ministers. Therefore, the \$4.6M is not included under the 2003-2004 Main Estimates heading.

5.8 Security

In the wake of the September 11, 2001 terrorist events, the Court and Registry continue to review the degree of security required to meet threats and risks posed by changes in the Court's mandate occasioned by the *Anti-terrorism Act* and other legislation, and to implement the revised Government Security Policy (GSP).

To provide the necessary level of readiness and protection for judges, prothonotaries and Registry staff, a comprehensive, professional security program will continue to be developed over the coming years to integrate elements of:

- general administration including procedures, training and awareness and identification of assets;
- security risk management
- security screening
- physical security, and protection of judges, employees and the public

- while on Court or Registry premises
- information technology security
- security in emergency and threat situations
- business continuity planning
- security in contracting
- security investigations

The Court and its Registry are also designated as an Emergency Preparedness Centre (EPC). Consequently, the Federal Court of Canada must continue to perform its judicial duties in the event of an emergency. The Registry is also a member of the *cadre* of the federal organizations comprising the Continuity of Constitutional Government Working Group (CCG) under the leadership of the Office of the Critical Infrastructure Protection and Emergency Preparedness (OCIPEP). As a result, the Registry must keep abreast of developments in other organizations to reach the desired state of readiness.

Appendix 1

OFFICES OF THE FEDERAL COURT OF CANADA

PRINCIPAL OFFICE - OTTAWA

Ottawa, Ontario
K1A 0H9
<http://www.fct-cf.gc.ca>

Appeal Division

Telephone: (613) 996-6795
Facsimile: (613) 952-7226

Trial Division

Telephone: (613) 992-4238
Facsimile: (613) 952-3653

LOCAL OFFICES

ALBERTA - CALGARY

Dan Buell
District Administrator
3rd Floor
635 Eight Avenue S.W.
Calgary, Alberta
T2P 3M3

Telephone: (403) 292-5920
Facsimile: (403) 292-5329

ALBERTA - EDMONTON

vacant
District Administrator
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Scotia Place, P.O. Box 51
10060 Jasper Avenue
Edmonton, Alberta T5J 3R8

Telephone: (780) 495-4651
Facsimile: (780) 495-4681

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Regional Director, Western
Pacific Centre, P.O. Box 10065
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Vancouver, British Columbia V7Y 1B6

Telephone: (604) 666-3232
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MANITOBA - WINNIPEG

vacant
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Facsimile: (204) 983-7636

NEW BRUNSWICK - FREDERICTON

Willa Doyle
District Administrator
Westmorland Place
82 Westmorland Street, Suite 100
Fredericton, New Brunswick E3B 3L3

Telephone: (506) 452-3016
Facsimile: (506) 452-3584

NEW BRUNSWICK - SAINT JOHN

Edward Andrew Joas, Registry Officer
Mary Kathleen Tobin, Registry Officer
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NEWFOUNDLAND - ST. JOHN'S and LABRADOR

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NORTHWEST TERRITORIES - YELLOWKNIFE

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*PRINCE EDWARD ISLAND -
CHARLOTTETOWN*

E. Dorothy Kitson
District Administrator
Sir Henry Louis Davies Law Courts
42 Water Street, P.O. Box 2000
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QUÉBEC - QUÉBEC

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Québec, Québec G1K 8K6

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Appendix 2

Some statutes under which the Federal Court exercises jurisdiction

Access to Information Act
Agriculture and Agri-Food Administrative Monetary Penalties Act
Air Travellers Security Charge Act
Anti-Personnel Mines Convention Implementation Act
Anti-terrorism Act
Atomic Energy Control Act
Bank Act
Bankruptcy and Insolvency Act
Broadcasting Act
Canada Agricultural Products Act
Canada Deposit Insurance Corporation Act
Canada Elections Act
Canada Evidence Act
Canada Grain Act
Canada Labour Code
Canada Lands Surveyors Act
Canada Marine Act
Canada Oil and Gas Operations Act
Canada Pension Plan
Canada Petroleum Resources Act
Canada Shipping Act
Canada Transportation Act
Canadian Environmental Protection Act, 1999
Canadian Human Rights Act
Canadian International Trade Tribunal Act
Canadian National Railways Act
Canadian Ownership and Control Determination Act
Canadian Security Intelligence Service Act
Canadian Space Agency Act
Cape Breton Development Corporation Act
Charities Registration (Security Information) Act
Citizenship Act
Civil International Space Station Agreement Implementation Act
Coasting Trade Act
Commercial Arbitration Act
Competition Act
Competition Tribunal Act
Cooperative Credit Associations Act
Copyright Act
Corrections and Conditional Release Act
Criminal Code
Crown Liability and Proceedings Act
Cultural Property Export and Import Act
Customs Act
Defence Production Act
Department of Human Resources Development Act
Divorce Act
Dominion Water Power Act
Emergencies Act
Employment Equity Act
Employment Insurance Act
Energy Supplies Emergency Act
Escheats Act
Excise Act
Excise Tax Act
Expropriation Act
Farm Credit Canada Act
Financial Consumer Agency of Canada Act
First Nations Land Management Act
Fisheries Act
Foreign Enlistment Act
Foreign Publishers Advertising Services Act
Hazardous Materials Information Review Act
Immigration and Refugee Protection Act
Income Tax Act
Indian Act
Industrial Design Act
Insurance Companies Act
Integrated Circuit Topography Act
International Boundary Waters Treaty Act
International Sale of Goods Contracts Convention Act
Labour Adjustment Benefits Act
Marine Liability Act
Motor Vehicle Safety Act
National Energy Board Act
North American Free Trade Agreement Implementation Act
Northern Pipeline Act
Northwest Territories Waters Act
Nuclear Safety and Control Act
Nunavut Waters and Nunavut Surface Rights Tribunal Act
Office of the Superintendent of Financial Institutions Act
Official Languages Act
Patent Act
Payment Clearing and Settlement Act
Pension Benefits Standards Act
Personal Information Protection and Electronic Documents Act
Petroleum and Gas Revenue Tax Act
Plant Breeders' Rights Act
Postal Services Interruption Relief Act
Privacy Act
Proceeds of Crime (Money Laundering) and Terrorist Financing Act
Public Servants Inventions Act
Public Service Employment Act
Radiocommunication Act
Railway Safety Act
Royal Canadian Mounted Police Act
Special Import Measures Act
Status of the Artist Act
Supreme Court Act
Tax Court of Canada Act
Telecommunications Act
Timber Marking Act
Trade-marks Act
Trust and Loan Companies Act
United Nations Foreign Arbitral Awards Convention Act
Yukon Surface Rights Board Act
Yukon Waters Act