

**CITT/CBA BENCH AND BAR COMMITTEE**

**JUNE 3, 1998**

**333 LAURIER AVENUE WEST**

**MINUTES**

- I. **Attendance:** P. Gosselin, P. Close, G. Stobo, R. Erdman, M. Granger, J. Archambault, H. Cheetham, S. Shainfarber, T. Akin, G. Cranker, R. Cheng, R. Wagner, B. Swick-Martin, R. Dattu, P. MacPherson, A. Turley.  
Regrets: P. Kirby.
- II. **Items**
1. **Minutes of October 16, 1997 Meeting:** The previous Minutes were reviewed and thereafter approved. The following additional matters were discussed with respect to the Minutes:
- (a) The Minutes of the meetings of the CITT/CBA Bench and Bar Committee have received limited circulation. A decision was made to put the Minutes on the CITT website. Reference to Minutes to be included in the upcoming Newsletter of the CBA Sales and Commodity Tax Section.
  - (b) The existence, and description, of the CITT/CBA Bench and Bar Committee will be reflected in the "What's New" section of the CITT website, and the existence and availability of the Minutes of the meetings will be mentioned.
  - (c) The CITT website has been in existence for approximately 18 months, and has received approximately 35,000 hits.
  - (d) The responsibility for taking of Minutes would shift as of the next meeting from the CBA to the CITT.
2. **SIMA - Legislative Review - Update:** G. Stobo advised that Bill C-35 had received first reading. Because of the summer recess of Parliament, the Bill will not advance very much further. Regulations and rules in support of the legislative amendments will have to be worked on over the next few months. The CITT regulations and rules will change to reflect: a listing of factors for the preliminary review of injury required by the SIMA changes, and the changes to the "sunset" review process whereby Revenue Canada will now deal with the issue of propensity to dump. Logistics will have to be worked out between Revenue Canada and CITT on the flow of information. The CITT also has to review its mandate on "public interest".
3. **CITT Rules - Update:** G. Stobo advised that the Tribunal has been working, along with the Department of Justice, on some changes to the rules, and will have to make sure that these changes "dove-tail" with the SIMA legislative review time-table. The updated rules will be in line with the current technology for electronic transfer of data. Some of the existing CITT Practice Notes will be reflected in the amended rules. Several procedures which are too cumbersome may be streamlined. The "undertaking" process will be dislodged from the new rules, to provide flexibility in the forms and terms required for confidentiality undertakings.
4. **Interrogatories:** G. Stobo advised that the Tribunal staff had met earlier in the morning with several counsel who appear regularly before the Tribunal on anti-dumping and countervailing duty matters to discuss the interrogatories process. There were a wide range of views. The

meeting was divided on the basis of trying to identify (i) the problems in the existing system of usage of interrogatories; and (ii) the solutions to the existing problems. The benefits of the interrogatories process included a completing of the record to assist the Tribunal, comprehensive record for purposes of judicial review, and on the whole insightful evidence which in some cases would not otherwise have been made available to the Tribunal. Disadvantages to the interrogatories process included volume of paper and increased burden on all, higher costs for participants including the recording of a significant number of hours by Tribunal staff and the participants, and reduced accessibility for certain participants. R. Erdman and S. Shainfarber reported on the discussions of the meeting in the morning. They indicated that the Tribunal would continue to put greater effort into having more focussed questionnaires with increased level of counsel participation in the design of the questionnaires. The Tribunal will also be issuing guidelines for interrogatories (i.e., on what type of information the Tribunal finds to be relevant). The Tribunal will be asking those posing interrogatories to provide rationale for questions to help expedite decisions by the Tribunal on the relevancy of certain interrogatories. A report will be produced for the Tribunal members on the deliberations of the morning symposium on the interrogatories process.

5. **Exchange of Confidential Information:** G. Stobo reported on on-going deliberations within the Tribunal on treatment of confidential information. There were concerns about the number of copies being made. Concerns had also been expressed on the matter of transmission of information by facsimile. There was general consensus that the Tribunal's rules did not permit faxing of confidential information.
6. **Distribution of Bench & Bar Committee Minutes** See items 1(b) and (c), above.
7. **Technology Update:** M. Granger reported on the matter of transfer of information through the internet using encryption technology. The transmission of information through the internet would avoid time delays which are now encountered in transferring information contained in hard copies. More test runs have to be done in the fall in connection with the technology to be used for transferring data through the internet. Industry Canada is currently using this technology for investment Canada purposes. The cost of an encryption key will be approximately \$75, payable by counsel who want access to information through electronic means of transmission.
8. **Other Business:** None.
9. **Next Meeting:** To be arranged.