

PRACTICE NOTICE

POSTPONEMENTS AND ADJOURNMENTS OF HEARINGS IN APPEAL CASES

The Canadian International Trade Tribunal (the Tribunal) has jurisdiction to hear appeals of certain decisions of the Minister and Deputy Minister of National Revenue pursuant to the *Customs Act*, the *Excise Tax Act* and the *Special Import Measures Act*. The Tribunal considers one of the hallmarks of an effective appellate system to be the timely hearing and resolution of the matters being appealed. However, the Tribunal notes that the hearing of an increasing number of appeals has been delayed, in many instances due to postponements (i.e. delays prior to the commencement of a hearing) or adjournments (i.e. delays after the commencement of a hearing) requested by the parties. A review of the hearing schedule indicates that a significant number of appeals did not proceed on the date scheduled for hearing due to postponements or adjournments. Reasons for postponements and adjournments fall into several broad categories, including awaiting the outcome of another appeal before the Tribunal or any other court in Canada, awaiting receipt from the Department of National Revenue of information relevant to the appeal, awaiting the outcome of negotiations between the parties, and the inability of counsel, parties or witnesses to appear before the Tribunal on the scheduled date.

The Tribunal considers it very important to have the scheduled dates for hearings and the timelines for filing briefs respected by all parties. Rescheduling hearings inconveniences other parties, prevents other appeals from being heard in a timely way and places an administrative burden on the Tribunal. The Tribunal, by this practice notice, is advising all persons appearing before it that it expects the scheduled dates for hearing and the timelines for filing briefs to be respected and that it intends to scrutinize requests for postponements and adjournments more closely to ensure that they are granted only when absolutely necessary.

**Procedure for Seeking a Postponement or Adjournment
under Rule 26 of the *Canadian International Trade Tribunal Rules***

Requests for Postponements

- Requests for postponements should be made as far in advance of the date fixed for hearing as possible and at least 10 days prior to the commencement of the hearing.
- A party seeking a postponement should first contact the other parties to canvass their views and seek their consent. If all parties consent to the request, they shall communicate this in writing to the Tribunal. The Tribunal shall take into account the consent of parties along with other appropriate considerations.
- Parties making a request must fully explain in writing why they require the postponement, having regard to the considerations set out in this notice.
- Upon receiving a request for a postponement, the Tribunal will assess the appropriateness of the request. The following considerations, where appropriate, will be taken into account:
 - (1) whether the request is reasonable under the circumstances;
 - (2) whether a postponement would unreasonably delay or impede the proceedings;

- (3) whether the request was made as soon as practicable and at least 10 days prior to the hearing;
 - (4) whether any of the parties would be prejudiced if the postponement were granted or not granted;
 - (5) whether previous postponements were granted and the reasons therefor;
 - (6) whether the other parties have consented to the request;
 - (7) whether the issue in the appeal is the same or substantially the same as that in another appeal before the Tribunal or any other court in Canada; and
 - (8) any other relevant factors.
- The Tribunal may seek representations from all parties to assist it in more fully considering the request.
 - The Tribunal's decision will be communicated, in writing, to all parties. In its decision, the Tribunal will, where possible, indicate the new date for the hearing.

Requests for Adjournments

- In considering a request for an adjournment of a hearing, the Tribunal may seek representations from all parties and, taking into account the considerations listed above, as appropriate, communicate its decision to the parties. Where possible, the Tribunal will indicate when it will reconvene the hearing.

The Tribunal expects counsel and representatives to work co-operatively with it to ensure the orderly and efficient administration of appeals.

Susanne Grimes
Acting Secretary

Dated at Ottawa, Ontario
this 30th day of October 1996