

# **Canadian International Trade Tribunal**

**2004-2005**

**Departmental Performance Report**



# **Canadian International Trade Tribunal**

**2004-2005**

**Departmental Performance Report**

---

**Ralph Goodale**  
**Minister of Finance**



## Table of Contents

<b>SECTION I—OVERVIEW .....</b>	<b>1</b>
Chairperson’s Message .....	1
Management Representation Statement.....	2
Legislative Context .....	3
Tribunal’s Mission.....	3
Benefits to Canadians .....	4
Challenges and Risks .....	4
Results and Priorities .....	6
Overall Strategy of the Tribunal .....	7
Resources .....	7
Performance Measurement Framework.....	8
Performance Indicators .....	9
Summary of Performance .....	9
Performance by Priority/Performance Indicator.....	10
<b>SECTION II—PERFORMANCE BY PROGRAM ACTIVITY .....</b>	<b>17</b>
Activity No. 1—Adjudication of Trade Cases.....	17
Activity No. 2—General Economic Inquiries and References.....	19
<b>SECTION III—SUPPLEMENTARY INFORMATION .....</b>	<b>21</b>
Organizational Information.....	21
Organization Structure.....	22
Financial Tables.....	22
Contact for Further Information and Web Site.....	25
Legislation Governing the Work of the Canadian International Trade Tribunal.....	25
List of Statutory and Tribunal Reports .....	25



## SECTION I—OVERVIEW

### Chairperson's Message

I am pleased to present the Departmental Performance Report of the Canadian International Trade Tribunal (the Tribunal) for fiscal year 2004-2005.

One of the Tribunal's principal objectives is to ensure that Canada's business community has access to a fair and transparent process to settle trade disputes. In so doing, the Tribunal contributes to Canada's competitiveness in the global trade environment. The Tribunal conducts trade-related injury inquiries (i.e. dumping, subsidizing, and global and Chinese safeguards), hears complaints regarding federal government procurement, and hears appeals from decisions of the Canada Revenue Agency (CRA) and the Canada Border Services Agency (CBSA). In its advisory role, the Tribunal undertakes general economic inquiries and tariff references for the Minister of Finance or the Governor in Council.

The Tribunal succeeded in issuing its decisions within statutory deadlines and maintained high quality standards in case research and analysis, despite a heavy caseload and resource pressures. However, elapsed times for producing decisions not subject to statutory deadlines have increased somewhat.

The Tribunal has maintained a strong record in terms of its decisions being upheld by national and international appeal bodies and continues to play a key role in fostering a Canadian trading system that is transparent and accessible and meets international obligations.

The Tribunal also continued to make long-term progress towards communicating electronically with parties, the key focus being on changes to its information technology infrastructure in order to ensure the security and confidentiality of information.

Finally, the Tribunal made a number of improvements to its management practices and has begun to implement key provisions of the *Public Service Modernization Act*, such as a labour-management consultation committee and an informal conflict resolution process.

---

Pierre Gosselin

## **Management Representation Statement**

I submit, for tabling in Parliament, the 2004-2005 Departmental Performance Report for the Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide for the preparation of 2004-2005 Departmental Performance Reports* of the Treasury Board of Canada Secretariat.

- It adheres to the specific reporting requirements.
- It uses the approved Program Activity Architecture.
- It presents consistent, comprehensive, balanced and accurate information.
- It provides a basis of accountability for the results pursued or achieved with the resources and authorities entrusted to the Tribunal.
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.

---

Julia Ginley  
Director  
Management Services



## Legislative Context

The Tribunal acts as an independent, quasi-judicial, decision-making body that is accountable to Parliament through the Minister of Finance for administrative purposes only. The Tribunal is composed of up to 9 (currently 7) full-time members, including a chairperson and two vice-chairpersons, and is supported by a permanent staff of 87 persons, who are responsible for court registry functions, the research and investigation of cases, legal services to the members and staff, and corporate services. It derives its authority from the *Canadian International Trade Tribunal Act (CITT Act)*, the *Special Import Measures Act (SIMA)*, the *Customs Act* and the *Excise Tax Act*. Its objective is to provide a fair and efficient trade remedies system to the Canadian public and the private sector and to offer the government, through its fact-finding inquiries and standing references, the best advice available so that it can formulate strategies for making the Canadian business sector better able to provide jobs and growth in today's globalized commercial environment.

Under the *CITT Act*, the Tribunal is empowered, on complaint by an interested party or as directed by the government, to carry out import safeguard inquiries into rapid increases of foreign imports (including through special procedures for imports specifically from the People's Republic of China [China]) and to formulate recommendations to the government for dealing with them. Under *SIMA*, it conducts inquiries into whether dumped and/or subsidized imports have injured Canadian manufacturers. Pursuant to the *Customs Act*, the *Excise Tax Act* and *SIMA*, the Tribunal is empowered to deal with appeals from decisions of the CRA and the CBSA on various excise and customs matters. With the implementation of the *North American Free Trade Agreement (NAFTA)*, its mandate was expanded to include reviewing bid challenges on federal government procurement matters. The Tribunal has also been designated as the bid challenge authority under the *Agreement on Internal Trade (AIT)* and the World Trade Organization (WTO) *Agreement on Government Procurement (AGP)*.

## Tribunal's Mission

The Tribunal's main objective is to provide the public with easy access to its services so that it can efficiently and effectively adjudicate, within tight statutory deadlines, the cases referred to it. In its **quasi-judicial role**, its caseload is comprised of:

- Unfair trade cases—inquiries under *SIMA* into whether dumped or subsidized imports have caused or are threatening to cause injury to a Canadian industry
- Safeguard cases—inquiries into whether the rapid buildup of imports from China, or from around the world, is causing injury to a Canadian industry
- Appeals of decisions of the CBSA made under the *Customs Act* and *SIMA* and appeals of decisions of the CRA under the *Excise Tax Act*
- Bid challenges—inquiries into complaints by potential suppliers concerning federal government procurement under *NAFTA*, the *AIT* and the *AGP*

The Tribunal also plays an **advisory role** for the government by conducting general economic inquiries and references, in particular:

- Safeguard cases—where the Tribunal finds serious injury to a Canadian industry, the Governor in Council may request it to recommend appropriate measures for dealing with the buildup of imports
- Tariff and general economic inquiries referred by the government—inquiries and advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance
- Standing tariff references from the Minister of Finance—investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their production

The Tribunal obtains its operating budget through the Main Estimates process. It does not receive funds through grants and contributions or through cost recovery of its operational expenditures.

More detailed information on the Tribunal and its caseload is available on its Web site at [www.citt-tcce.gc.ca](http://www.citt-tcce.gc.ca).

## **Benefits to Canadians**

Canadians benefit from the Tribunal through the enjoyment of:

- Access to fair and efficient processes for investigating complaints of economic injury from unfairly traded imports
- Protection of Canadian businesses against unfair and injurious competition
- Access to a fair and efficient process for investigating complaints of unfair government procurement decisions
- Compliance with Canada's obligations under the WTO, *NAFTA* and other trade agreements
- Reliable economic and trade analysis and advice for the government's policy-making function
- Ultimately, a fair and open trading system for individual Canadians and the Canadian business sector

## **Challenges and Risks**

Overall, the Tribunal delivers an indispensable trade adjudication service in the face of an increasingly heavy caseload and complex environment. Highlights of specific challenges and risks faced by the Tribunal, and how the Tribunal has addressed these risks, are provided below.

- **Impact of economic factors.** The Canadian apparel and textile industries have been challenged by increasing competition from abroad, as these markets

continue to globalize and as textile and tariff quotas were removed at the end of 2004, consistent with Canada's commitments to the WTO. As part of a set of initiatives to improve the competitiveness of the Canadian industries, the Minister of Finance sent two tariff references to the Tribunal in 2004-2005.

- **Program changes.** The CBSA introduced a program to make trade remedies against the dumping and subsidizing of imports more available to small- and medium-sized enterprises. This program resulted in an increase in the number of injury inquiries at the Tribunal in 2004-2005.
- **Unpredictable caseload and increasing complexity of cases.** The Tribunal continues to face a large workload on dumping and subsidizing injury inquiries. Further, the workload associated with procurement complaints, though having decreased recently, has tripled since 1994, and the complaints have become much more complex, requiring the Tribunal to develop specific expertise in this area. The caseload is externally generated, and the Tribunal has no ability to predict or affect the volume of its intake of cases. This challenge is further exacerbated by the fact that, for key areas of its mandate (dumping and subsidizing, government procurement, safeguards and government references), its findings and determinations are subject to tight statutory or government-mandated deadlines. At the same time, the Tribunal has been faced with a reduction in its resources. During the last fiscal year, it made increased use of temporary resources, students and staff in term, contract and casual positions.

#### Trend in Tribunal Caseload During Last Five Fiscal Years

Case Type	2000-2001		2001-2002		2002-2003		2003-2004		2004-2005	
	Total Caseload*	Decisions/ Reports Issued	Total Caseload*	Decisions/ Reports Issued	Total Caseload*	Decisions/ Reports Issued	Total Caseload*	Decisions/ Reports Issued	Total Caseload*	Decisions/ Reports Issued
<i>SIMA</i> Activities	30	21	23	15	30	30	23	18	34	18
Appeals	310	58	268	59	277	25	259	89	289	108
Economic, Trade, Tariff and Safeguard Inquiries	14	9	7	3	16	5	16	10	10	5
Procurement Review Activities	87	28	99	32	94	35	101	31	74	19
<i>Total</i>	441	116	397	109	417	95	399	148	407	150

\* Total caseload includes cases brought forward from the previous fiscal year and cases received in the fiscal year.

- **Prevalence of electronic communications in courts and tribunals.** Increasingly, parties (and their counsel) appearing before the Tribunal expect to be able to interface with it electronically, as they now do with the courts and other tribunals. This includes the ability to submit applications and supporting documentation electronically, to access case information electronically and to be able to communicate with the Tribunal and other parties electronically and securely. During 2004-2005, progress was made in preparing the infrastructure to allow for the secure electronic transfer of information to and from the Tribunal

and in updating the Tribunal's case management system (ToolKit) with a view to enabling parties to have electronic access to case information. The next stage will be to enable parties to file documents electronically. Ultimately, the aim is to provide remote access to Tribunal case information.

- **Ensuring the continuity of the Tribunal's expertise.** The Tribunal's workforce is highly specialized, having developed its competencies over a number of years. During the fiscal year, a number of senior and knowledgeable personnel retired. Consequently, the Tribunal devoted significant time to the recruitment of key management positions, replaced three members of the senior management team and continues to maintain a strong focus on training and human resource planning.
- **Managing with fewer resources.** During the fiscal year, the Tribunal's resource levels were reduced by \$179,000 as part of government-wide austerity measures. This reduction was coupled with a significant increase in the workload in recent years—the number of decisions and reports issued by the Tribunal increased by nearly 40 percent during the last two fiscal years compared to the three preceding fiscal years. Moreover, government constraints on the hiring of new staff delayed the replacement of staff who left the Tribunal during 2004-2005. This impeded its ability to service its caseload and required the Tribunal to rely increasingly on temporary staff, staff overtime, less experienced staff to conduct investigations, with less time available for training, process improvement, and changes to rules and practices.

## Results and Priorities

The Tribunal has a single strategic outcome:

*Fair, timely and effective disposition of international trade cases and government-mandated inquiries in various areas of the Tribunal's jurisdiction.*

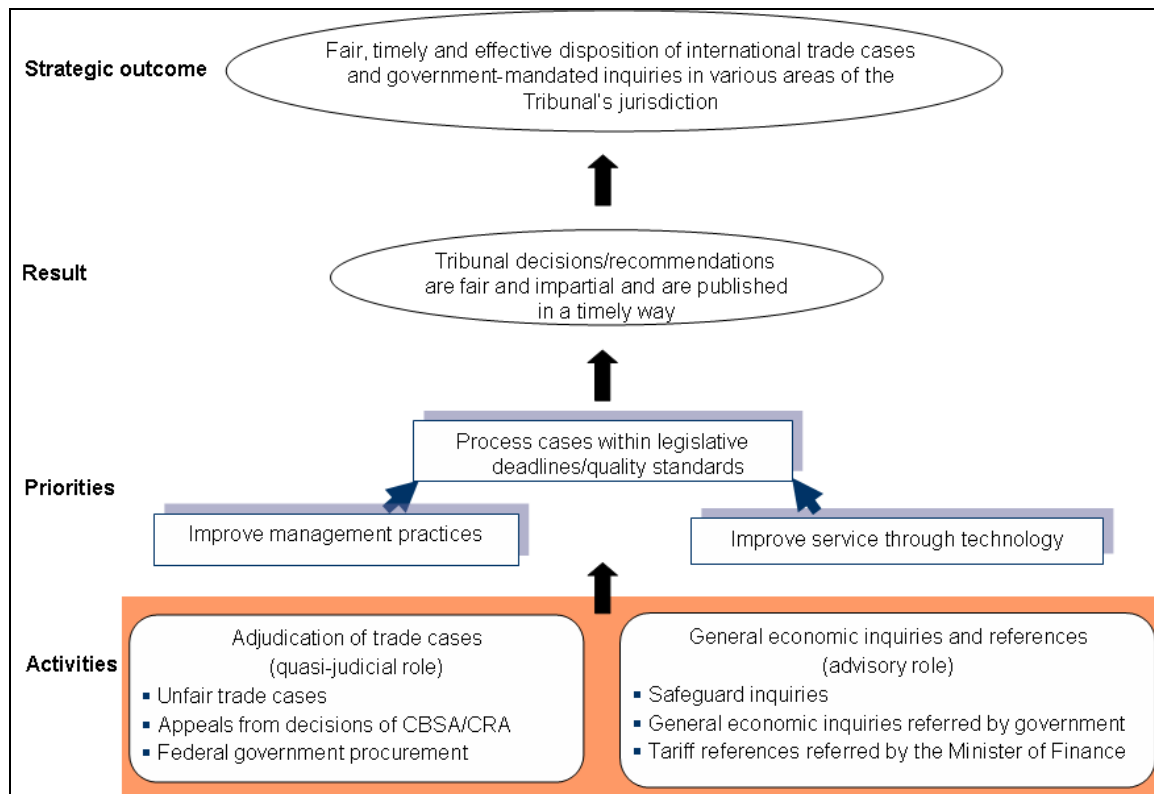
The result to be achieved in support of this strategic outcome is that the Tribunal's decisions and recommendations are fair and impartial (and are viewed as such by stakeholders) and are published in a timely way (in terms of quality and meeting statutory and internal deadlines).

Under the new Program Activity Architecture, the Tribunal has two activities that contribute to the above result. These are: adjudication of trade cases (quasi-judicial role) and general economic inquiries and references (advisory role).

The Tribunal's priorities have remained the same for a number of years. These are to: process cases within legislative deadlines/quality standards; improve service through technology; and improve Tribunal management practices.

The relationship between the activities, priorities, result and strategic outcome is summarized in the chart below.

## Overall Strategy of the Tribunal



## Resources

The Tribunal's resources during 2004-2005 are summarized below. As noted earlier, the government placed constraints on the hiring of new staff during 2004-2005. As a result, the Tribunal incurred delays in replacing the persons who had left the Tribunal during the fiscal year and, therefore, spent less on salaries than planned. However, this funding allocation was used to hire temporary help and contract staff and to support other essential activities of the Tribunal.

### Total Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
9,815	10,095	10,068

### Total Human Resources (FTE)

Planned	Actual	Difference
94	84	10

As stated in its Report on Plans and Priorities for 2004-2005, the Tribunal previously had one business line—to act as an administrative court for dumping and subsidizing inquiries, appeals from CRA and CBSA decisions on excise and customs matters, and procurement complaints, and as an advisor to the government or the Minister of Finance on a broad range of trade, economic or tariff-related matters. The relationship between the new program activities and the previous business line, in terms of resources, is summarized in the chart below.

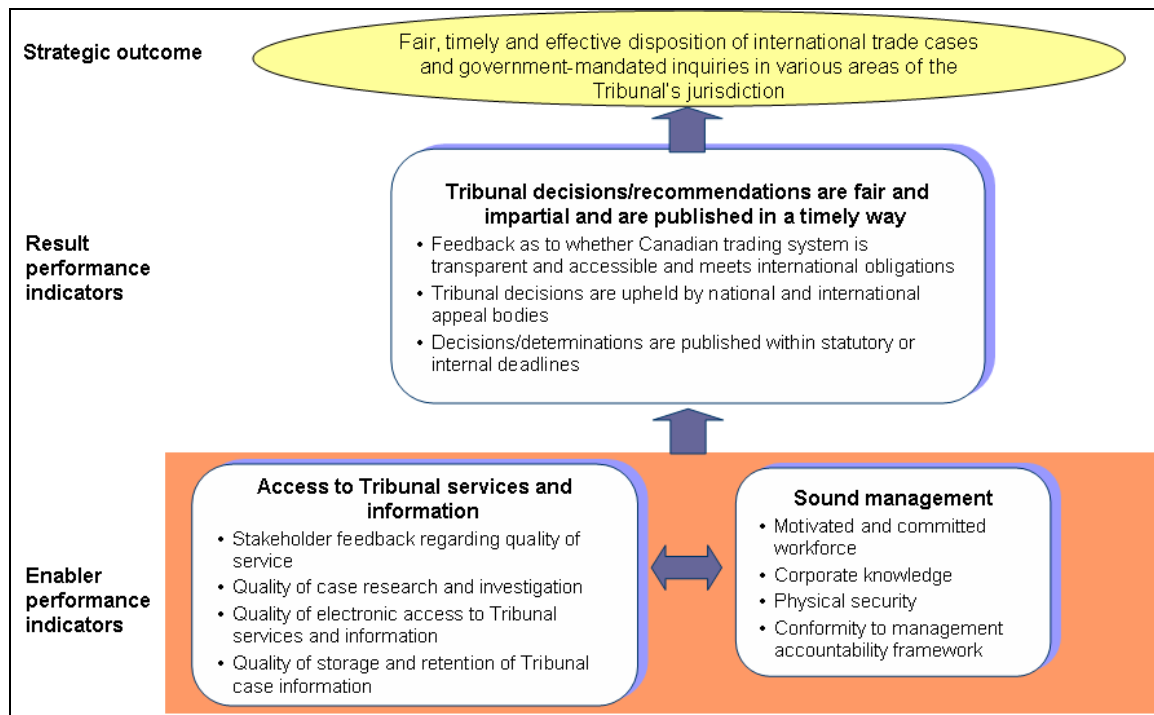
**Relationship Between Prior Business Line and New Program Activities  
(thousands of dollars)**

2004-2005			
	Adjudication of Trade Cases (quasi-judicial role)	General Economic Inquiries and References (advisory role)	Total
<b>Related Financial Information:</b>			
<b>CITT</b>			
Main Estimates	9,605	210	9,815
Planned Spending	9,605	210	9,815
<i>Total Authorities</i>	<i>9,186</i>	<i>909</i>	<i>10,095</i>
Actual Spending	9,185	883	10,068

**Performance Measurement Framework**

The Tribunal has developed performance indicators as part of its planning and reporting framework in order to measure performance. These performance indicators are summarized in the chart below. The indicators are at an initial stage of development and will continue to be refined over time, as the Tribunal gains experience in their application.

## Performance Indicators



## Summary of Performance

An overall assessment of the Tribunal's performance is provided below based on its three ongoing priorities.

The Tribunal issued sound decisions within the statutory deadlines, despite a heavy caseload. Some delays were incurred in appeal decisions, which are not subject to statutory deadlines. Decisions that were challenged were, for the most part, upheld by appeal bodies. Further details are provided in the pages that follow.

The Tribunal continues to make progress in providing external parties access to Tribunal services and information electronically, with the ultimate aim of enabling parties to file electronically with full protection of the security and confidentiality of the information.

Finally, the Tribunal made a number of improvements to its management practices, particularly in the area of human resources management.

### Summary of Performance in Relation to Strategic Outcome and Priorities

Strategic Outcome	2004-2005 Priorities	Type	Current Status	Overall Assessment
Fair, timely and effective disposition of international trade cases and government-mandated inquiries in various areas of the Tribunal's jurisdiction	Process cases within legislative deadlines/quality standards	Ongoing	Met	<ul style="list-style-type: none"> <li>• Issued decisions as per statutory deadlines</li> <li>• Some delays in issuing appeal decisions, which are not subject to statutory deadlines</li> <li>• Tribunal decisions that were challenged were upheld by appeal bodies</li> <li>• Continued to meet international obligations</li> </ul>
	Improve service through technology (e.g. Government On-Line [GOL])	Ongoing	Not yet fully met	<ul style="list-style-type: none"> <li>• Communicating with parties via e-mail</li> <li>• Posting of questionnaires on the Internet for more timely access</li> <li>• Web access to e-mail by staff</li> </ul>
	Improve management practices (e.g. Modern Comptrollership, Internal Audit Program)	Ongoing	Not yet fully met	<ul style="list-style-type: none"> <li>• Began implementation of <i>Public Service Modernization Act</i></li> <li>• Updated financial delegation instrument</li> <li>• Integrated financial systems</li> <li>• Improved security</li> <li>• Established planning and reporting framework</li> <li>• Review of human resource function</li> <li>• Enhanced CITT governance framework</li> <li>• Established performance framework</li> </ul>

### Performance by Priority/Performance Indicator

Highlights of the Tribunal's performance in relation to each of the three priorities and its performance indicators are described below.

#### Priority 1: Processing cases within legislative deadlines/quality standards

The key ongoing priority of the Tribunal is to hear cases and make sound decisions expeditiously on matters that fall within its jurisdiction pursuant to acts of Parliament, particularly cases that have legislative deadlines. In doing so, the Tribunal has strived to respect timelines and maintain the quality of its findings, determinations and recommendations. Specific achievements include the following.

- **Decisions were issued as per statutory deadlines.** All decisions/determinations subject to statutory deadlines (i.e. dumping and/or subsidizing and procurement complaint cases) were issued within the established statutory deadlines. However, in some procurement cases, the statement of reasons providing the detailed judgment, and the translation of the determination and statement of reasons, were issued at a later date.
- **Elapsed times for the production of appeal decisions, which are not subject to statutory deadlines, increased somewhat.** The Tribunal has adopted an informal, voluntary standard of publishing appeal decisions within 120 days of the hearing, given that there is no statutory deadline in place. To achieve this deadline, the Tribunal strives to maintain a strong discipline of case management and tracking to ensure compliance with milestones and to ensure the optimal



scheduling and use of staff resources between investigations. Unfortunately, due to the added workload in the case work under statutory deadlines and internal resource pressures, elapsed times **for producing decisions** increased during 2004-2005.

- **Tribunal decisions were nearly all upheld by national and international appeal bodies.** An indicator of the soundness of Tribunal decisions is the number of decisions that are upheld. During 2004-2005, only a small number of decisions were allowed by the Federal Court of Appeal; in particular, three decisions regarding appeals under the *Customs Act* and the *Excise Tax Act*, and four decisions relating to its bid challenge authority for federal government procurement under *NAFTA* and the *AIT* were reversed.
- **The Canadian trading system is perceived to be transparent and accessible and meets international obligations.** The WTO publishes comments every two years, through its Trade Policy Review mechanism, on whether Canada and the Tribunal have fostered a fair and open trading system that is transparent and accessible and meets international obligations. In its Trade Policy Review for Canada, the WTO, in 2003, characterized Canada's trade regime as amongst the "world's most transparent and liberal". The next WTO Trade Policy Review for Canada will take place in 2006.
- **Stakeholder feedback regarding quality of service was positive.** The level of satisfaction of stakeholders with the Tribunal's procedures and guidelines entails a number of considerations, for example, the response time with regard to requests for information, the effectiveness of the Tribunal's procedures and the overall efficiency of the adjudication process. Stakeholder feedback on the procedures and rules is obtained through the Bench and Bar Committee (the Committee). The Committee serves as a forum to discuss procedural issues of common interest. It is composed of lawyers nominated by the Canadian Bar Association and the Department of Justice and trade consultants invited by the Tribunal. The Committee held one meeting during 2004-2005. This meeting of the Committee provided an opportunity for participants to present their views about the Tribunal's processes and procedures. Proposed changes included the timing of *SIMA* hearings, the necessity of oral hearings in procurement cases, and the electronic transmission of Tribunal directions and decisions.

Because of the volume of the caseload in 2004-2005, there was little opportunity for staff to update practice rules, notes and guidelines. Although there were significant changes to Tribunal practices in a number of areas, including public interest reviews and interim reviews, none of the rules, notes or guidelines were changed during 2004-2005. As a result, there was no consultation with stakeholders on updated procedures and processes.

- **High quality standards were maintained in case research and analysis despite resource pressures.** The Tribunal continued to bring staff expertise together around each case through multi-disciplinary and cross-functional teams to ensure the highest level of expertise appropriate to each case. It also

implemented rigorous quality controls for each case through internal peer review approvals, editing of research reports and evaluations at the end of each case.

Significant improvement was made in releasing staff reports, where appropriate, in both official languages and posting the public versions of the staff reports on the Tribunal's Web site. Research reports were found, by the members and parties, to be objective and accurate. Moreover, the communication of the information in the reports was as transparent as possible, while ensuring the protection of proprietary business information.

## **Priority 2: Improving service through technology**

The Tribunal has made significant efforts to improve the delivery of services to parties and their counsel by leveraging information technology for better, faster and more efficient service. For a number of years, it has undertaken initiatives to improve electronic access to information by both internal users (members and staff) and external users (litigants and their counsel).

- **Work to provide electronic access to Tribunal services and information was ongoing.** During 2004-2005, project plans were developed and further steps undertaken with the ultimate objective to automate and integrate all the information around a case and to provide full electronic filing once confidentiality and legal issues have all been resolved. For example, progress was made during 2004-2005 to enable industry to complete questionnaires online, with the goal of eventually automating the analysis of the results of the questionnaires. At the moment, questionnaires are downloaded from the Tribunal's Web site and submitted to the Tribunal in paper format.

The Tribunal has also made improvements to its Web site in order to better communicate with various groups of stakeholders and the public. For example, the Web site is used to communicate and distribute documents, thus significantly enhancing the quality of service to those participating or interested in Tribunal cases. The Web site allows users to register, free of charge, for a subscriber alert service that informs them when new documents are posted, to download a procurement complaint form, a Chinese safeguard complaint form and a request for exclusion form, and to download and complete electronic versions of Tribunal questionnaires. Moreover, staff reports for references and global safeguard inquiries are available on the Web site. A repository of all Tribunal documents also allows for research into past decisions.

- **Storage and retention of case information are being improved.** A priority for the Tribunal is to implement e-life cycle management of case files. The Tribunal obtained GOL funds of \$136,000 (\$68,000 in 2004-2005 and \$68,000 in 2005-2006) to apply the Management of Government Information (MGI) Policy to *SIMA* case files in partnership with the CBSA. Work began during the fiscal year to develop the requirements and plan for the e-life cycle management of *SIMA* case files (as a single file), using electronic document management systems to provide the parties information sharing, controlled and secure electronic access, protection of confidential information, tracking and document search capabilities.

Tasks carried out included identifying requirements for the e-life cycle management of *SIMA* case files, developing a plan for implementing a document management system, identifying improvement opportunities and developing a methodology for managing case files from a business and archival perspective. The Tribunal also implemented the common look and feel requirements as per the Government Web Standard.

- **Communications with the public were improved.** The Tribunal continued to provide public accessibility to information, including offering services to the public in both official languages, information regarding its mandate and procedures, over-the-counter services, written and oral communications with the public and the efficient processing of documents relevant to eventual proceedings before the Tribunal. In a number of *SIMA* cases, parties were not represented by counsel; consequently, the secretariat was required to pay special attention to their needs and provide them guidance on the Tribunal's administrative and judicial process.

### **Priority 3: Improving management practices**

The Tribunal continued to improve its management practices, building on the results of the capacity assessment of its management practices completed in 2003-2004, and the subsequent action plan developed during 2004-05. The following are some specific achievements.

- **The *Public Service Modernization Act* is being implemented.** The *Public Service Modernization Act* is bringing about changes in the way the federal public service hires and manages its employees. As is the case government-wide, the Tribunal began, during 2004-2005, to align its human resource practices with the requirements of the act. Awareness sessions were carried out to brief senior management and employees on the new *Public Service Modernization Act*. A labour-management consultation committee and informal conflict resolution process were established as per the requirements of the *Public Service Labour Relations Act* that came into effect on April 1, 2005. A detailed action plan was developed to prepare for implementation of the *Public Service Employment Act*. The Tribunal also carried out an in-depth review of the human resource function, which resulted in a number of recommendations to ensure that the Tribunal meets all the requirements of the *Public Service Modernization Act*.
- **The development and maintenance of corporate knowledge were put on hold.** Maintaining continuity in the corporate knowledge of the Tribunal among staff requires a sustained focus on documenting procedures, training, recruitment, and human resource and succession planning. In 2004-2005, the volume of case work overwhelmed the available staff. As a consequence, priority was placed on meeting the deadlines for case work and maintaining a high quality standard of work. Documentation on procedures, practice notes and guidelines was consequently put on hold. Recruitment was focused on meeting immediate needs through the use of temporary and contract staff. By necessity, the Tribunal was not able to devote the necessary effort to the orientation of new staff and training

of new and existing staff on even the essential items of corporate knowledge and values.

- **Business continuity is being addressed.** The Tribunal carried out a Threat and Risk Assessment (TRA) for the Tribunal as a whole, which will be used to develop an action plan and a business continuity and emergency plan. It also conducted an in-depth technical vulnerability assessment of its information technology infrastructure.
- **Security was improved.** The Tribunal made improvements to its physical security, by creating a central directory for incident reports, updating identity cards, completing the move from access codes to proximity cards, and reviewing incoming and outgoing employee processing.
- **The internal audit program was partially implemented.** The Tribunal's policy on internal audit and risk-based internal audit plan, developed during 2003-2004, were put on hold pending developments at the Treasury Board of Canada Secretariat regarding internal audit for small agencies. Nevertheless, the Tribunal carried out a review of the human resource function during 2004-2005, and plans to conduct a similar review of the financial function during 2005-2006.
- **The financial delegation instrument was reviewed and updated.** The Tribunal reviewed and updated its financial signing authorities. Responsibility centre managers now have a better understanding of the scope of their financial authorities.
- **The Tribunal's financial systems were integrated.** Three separate Tribunal systems (procurement, asset management, salary management) have now been integrated into the GX financial system. This has reduced the requirement for duplicate entries and maintenance costs and will, in the long term, ensure better data integrity and provide more timely information to managers.
- **Proactive disclosure requirements were implemented.** As per government-wide requirements, the Tribunal added to its Web site information on travel and hospitality expenses for selected senior officials; contracts entered into by the Tribunal for amounts over \$10,000; and the reclassification of positions.
- **Planning and reporting framework was developed.** The Tribunal developed a planning and reporting framework in order to establish a more cohesive internal planning process and meet external reporting requirements of the Government's expenditure management system. It also revised its budgeting and forecasting process.

A summary of the Tribunal's performance for each of its performance indicators is presented below, based on a five-level performance scale (major gap, below target, approaching target, at target and above target). The shaded area represents the Tribunal's assessment of its performance during 2004-2005.

**Summary of Tribunal Performance in Relation to Performance Indicators**

Performance indicator	Performance Scale				
	Major Gap	Below Target	Approaching Target	At Target	Above Target
<i>Decisions/ determinations are published within statutory or internal deadlines</i>	A number of case deadlines were missed.	Most statutory deadlines were met. Time lapse for non-statutory cases exceeds target, and backlog is above norm.	All decisions issued as per statutory deadlines. Not all non-statutory deadlines were met. Time lapse for non-statutory deadlines is stable, and backlog is stable or decreasing.	All statutory and non-statutory deadlines were met. Overall time lapse for non-statutory deadlines is decreasing.	Case processing time is less than targeted. Overall time lapse for processing cases is decreasing. Backlog is minimal.
<i>Tribunal decisions are upheld by national and international appeal bodies</i>	A large number of Tribunal decisions are subject to an application for judicial review.	A large number of decisions are overturned by appeal bodies, which has resulted in changes to rules and procedures.	A small number of decisions are overturned by appeal bodies.	No decisions overturned by appeal bodies due to judicial review.	No decisions are subject to an application for judicial review.
<i>Feedback as to whether Canadian trading system is transparent and accessible and meets international obligations</i>	Canadian trading system has low level of credibility internationally.	WTO has expressed concerns about Canadian trading system. This is hurting reputation and Canadian trading system and impeding trade discussions.	WTO has expressed some minor concerns about openness of Canadian trading system.	Canadian trading system is perceived to be fair and open and to have high level of transparency and accessibility. Canada is perceived to have met its international obligations.	Tribunal has helped Canada to develop high level of credibility in international trade community and negotiations.
<i>Stakeholder feedback regarding quality of service</i>	High frequency of complaints. No survey of stakeholder satisfaction.	Informal feedback is received from stakeholders. Some complaints and concerns. Specific client issues are being addressed.	Positive stakeholder feedback received informally. Complaints are minimal. Some errors, but corrected before they affect external stakeholders.	High stakeholder satisfaction. Issues are resolved quickly. Responsive and efficient service. Good access to information. Few errors.	High stakeholder satisfaction as per stakeholder surveys. Many examples of positive feedback received.
<i>Quality of case research and investigation</i>	Major rewrites were required of staff research reports after their release. Members were critical of quality of research reports. Parties had major objections to factual content of research.	Significant rework was required after the release of staff reports. Member feedback was not always positive. Parties had concerns about inaccuracies.	Some changes were made to reports after release. Not all reviews met quality expectations. Members generally provided positive feedback. Few factual corrections identified by parties.	Some minor changes required to reports after release to reflect updates and revisions made by parties. Members provided positive feedback to most reports. No factual inaccuracies identified by parties.	Members and parties provided very positive feedback on a number of cases regarding research and analysis. Quality exceeded expectations.
<i>Quality of electronic access to Tribunal services and information</i>	Paper filing of cases only. Public has access to Web site for general information. Internal processes are mainly paper based.	External users have limited access to Tribunal services electronically. Electronic services are cumbersome and time consuming. Little or no integration between electronic services and Tribunal systems. Security of information cannot be guaranteed.	Some electronic services are accessible to external users. Secure electronic document transfer. External/internal users have electronic access to most current case information. Partial integration between electronic services and Tribunal systems.	Electronic services are easily accessible to external users. Security measures are in place. Good access to case information electronically. Case information is shared electronically between the parties. Electronic services are closely integrated with Tribunal systems.	Latest technology in place. Full integration between electronic services and Tribunal systems. Extensive system flexibility. Electronic services are adaptable to different user technical environments.

2004-2005 Departmental Performance Report

Performance indicator	Performance Scale				
	Major Gap	Below Target	Approaching Target	At Target	Above Target
<i>Quality of storage and retention of Tribunal case information</i>	Only partial case information is available and is in paper format only. Information is often not up-to-date. Reliability issues re content and/or system. High number of complaints from stakeholders.	Relevant case information is available in mostly paper format and can be difficult to access. Not all information is up-to-date and accurate. Delays in obtaining information. Complaints have been received from stakeholders about wanting better access to information.	Relevant case information is available in mostly paper format. Strong demand for information. Most information is up-to-date or accurate. Some system enhancements are required. Information is partially available on Web. Few complaints.	Case information is readily available in electronic format. Information is up-to-date, complete and accurate. User-friendly interface. Information is maintained and reported in a consistent format. Stakeholders are satisfied. No complaints.	Stakeholders are able to immediately access all case information on a self-serve basis, using latest Web interfaces. Case management system reflects latest technology and is integrated with e-filing and document management.
<i>Motivated and committed workforce</i>	Motivated and committed workforce	Results of employee surveys are below norm. High turnover rate and/or absenteeism compared to other departments/agencies. Morale issues exist.	Employee satisfaction levels are below norm. Turnover is high. Efforts are underway to improve employee satisfaction and retention. Some grievances and employee relations issues.	Employee satisfaction has been improving as per survey results. Staff retention is close to target levels. Staff has access to learning and development opportunities.	Consistently satisfactory results in employee surveys. Staff retention is within target levels. Positive employee feedback re work environment. Strong internal communications.
<i>Corporate knowledge</i>	Processes are not documented. No standardized approach. Historical information is limited.	Staff has access to policies, processes and guidelines on Intranet, but they are not up-to-date. Historical information is difficult to access. Significant gaps exist in capabilities.	Staff has access to policies, processes and guidelines on Intranet (about 60%). Historical information is available but is dispersed. Duplication in tools available.	Staff has access to policies, processes and guidelines on Intranet (over 80%). Good access to tools. Historical information is easily accessible. Strong orientation program for new staff.	Staff has ready access to policies, processes, guidelines, tools and historical information from desktop. Strong focus on learning, succession planning and staff development.
<i>Physical security</i>	Security assessment is out of date. Responsibility for security is unclear. Limited awareness among staff.	Some significant security incidents. Security gaps exist and are being addressed. Inconsistent awareness among employees of security requirements.	No major security incidents. Some minor security gaps identified and being addressed. Security program has been implemented. Responsibilities are clear.	No major security incidents. Security level is considered sufficient as per TRA. Employees have high degree of awareness of security requirements. Training provided.	No security gaps identified by TRA. No security incidents.
<i>Conformity to management accountability framework(MAF)</i>	MAF expectations have been met for only one or two elements. Management practices need to be put in place.	MAF expectations have been met for roughly half of 10 elements. Management practices for other elements are still at the developing stage.	MAF expectations have been met for most elements. Improvement projects are ongoing. Improvement projects are on time and within budget.	MAF expectations have been met for all 10 elements. Management practices are assessed on a yearly basis. Focus is on continuous improvement.	MAF expectations have been met for all 10 elements, and have been exceeded for some elements.

## SECTION II—PERFORMANCE BY PROGRAM ACTIVITY

Described below, for both program activities, are the performance results achieved by the Tribunal during 2004-2005, and how the Tribunal's plans and priorities discussed earlier supported the achievement of these performance results.

### Activity No. 1—Adjudication of Trade Cases

The adjudication of trade cases is a quasi-judicial activity that includes unfair trade cases, appeals from decisions of the CBSA and the CRA, and bid challenges relating to federal government procurement. The Tribunal strives to make decisions that are fair and impartial and published in a timely way.

#### Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
9,605	9,186	9,185

#### Human Resources (FTE)

Planned	Actual	Actuals
92	76	16

Highlights of key performance results achieved include the following.

- Decisions were published within statutory deadlines.** The Tribunal's decisions regarding dumping and/or subsidizing and procurement complaints are subject to statutory deadlines. In 2004-2005, 37 decisions were issued covering these two areas of the Tribunal's mandate, including 18 *SIMA* decisions and 19 procurement decisions. All determinations were issued within statutory deadlines. The Tribunal has implemented strong case management controls to ensure that it is able to meet these deadlines and does extensive tracking of the status of cases to ensure close adherence to prescribed deadlines. Detailed reports also exist on the status of cases.
- There were some delays regarding internal deadlines.** There is no statutory deadline imposed for the decisions on appeals of CBSA and CRA decisions. However, the Tribunal has adopted an informal, voluntary standard of issuing such decisions within 120 days of the hearing of an appeal. Management monitors these files closely to ensure that, to the greatest extent possible, the Tribunal adheres to this standard. Given the added workload in the case work under statutory deadlines, delays have increased for these cases subject to internal deadlines.

A review of the appeals heard in 2004-2005 shows that the Tribunal met its target of issuing decisions within 120 days of the hearing in less than half of the cases (41 percent). The balance of the decisions issued averaged 146 days and decisions have yet to be issued in 41 percent of the cases heard in that year.

A review of all the appeal decisions issued in 2004-2005 in cases where hearings were held shows that the Tribunal met its target of 120 days in half of the cases (52 percent). The balance of the decisions were issued within 175 to 357 days of the hearing, for an average of 188 days.

- **A small number of Tribunal decisions were challenged, and they were, for the most part, upheld by national and international appeal bodies.** An indicator of the soundness of Tribunal decisions is the number of decisions that are upheld. Tribunal decisions on dumping and subsidizing matters may be reviewed by the Federal Court of Appeal or a binational panel under *NAFTA* in the case of a decision affecting U.S. and/or Mexican goods. WTO member states whose goods are affected by a Tribunal decision may also initiate dispute settlement proceedings under the *WTO Understanding on Rules and Procedures Governing the Settlement of Disputes*, if they believe that the Tribunal's procedures violated the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*. Tribunal decisions on appeals may be appealed to the Federal Court of Appeal or, in the case of the *Excise Tax Act*, the Federal Court. The Tribunal monitors whether its decisions have been the subject of applications for judicial review or appeals before these bodies. It determines, based on the issues raised in these applications, whether it will seek intervenor status before the Federal Court of Appeal. It is automatically a party in any binational panel review under *NAFTA*. The results of appeals are highlighted below.
  - **SIMA.** Of the 18 cases investigated by the Tribunal pursuant to *SIMA* during 2004-2005, 3 decisions were challenged before the Federal Court of Appeal and 1 before a *NAFTA* binational panel. One appeal to the Federal Court of Appeal and the appeal to the *NAFTA* binational panel were withdrawn, and 2 other appeals to the Federal Court of Appeal were outstanding at the end of the fiscal year. As for Tribunal decisions issued in the previous fiscal years that were appealed to the Federal Court of Appeal, 1 was dismissed, and another was discontinued. No Tribunal decisions were submitted to a WTO dispute settlement panel by a WTO member state.
  - **Customs and Excise.** The Tribunal issued 20 decisions during 2004-2005 regarding appeals under the *Customs Act* and the *Excise Tax Act*. Five were appealed to the Federal Court of Appeal, and they were all still outstanding at the end of the fiscal year. As for the appeals of decisions issued in previous fiscal years, 1 application was discontinued, 5 were dismissed, and 3 were allowed.
  - **Procurement.** Of the 19 cases determined on merit pursuant to the Tribunal's bid challenge authority for federal government procurement under *NAFTA* and the *AIT*, 3 determinations were challenged at the Federal Court of Appeal.



One was withdrawn, and 2 challenges were in progress at the end of the fiscal year. As for applications for judicial review regarding Tribunal determinations from previous fiscal years, 4 applications were dismissed, 3 were discontinued, 1 was withdrawn, and 4 were allowed.

- **Feedback on whether Canada’s trade remedies system is transparent and accessible and meets international obligations.** As noted earlier, the WTO publishes comments every three years, through its Trade Policy Review mechanism, on whether Canada and the Tribunal have fostered a fair and open trading system that is transparent and accessible and meets international obligations. The latest Trade Policy Review for Canada by the WTO in 2003 characterized Canada’s trading regime as amongst the “world’s most transparent and liberal”.

## Activity No. 2—General Economic Inquiries and References

General economic inquiries and references are advisory activities of the Tribunal. These include safeguard inquiries, general economic inquiries referred by the government and tariff references referred by the Minister of Finance. The Tribunal strives to make recommendations that are fair and impartial and published in a timely way.

### Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
210	909	883

### Human Resources (FTE)

Planned	Actual	Difference
2	8	-6

Key performance results achieved are similar to those outlined above and include the following.

- **Tribunal reports were published within statutory or government-mandated deadlines.** Tribunal decisions regarding tariff references and economic and safeguard inquiries are subject to government-mandated deadlines. In 2004-2005, one report was issued covering these two areas of the Tribunal’s mandate. It was issued within the government-mandated deadline.
- **No appeals were made of Tribunal determinations and recommendations for general economic inquiries and references.** An indicator of the soundness of Tribunal determinations and recommendations is the number of determinations that were appealed and upheld, i.e. whether applications are dismissed or discontinued by appeal bodies. No such appeals were made.



## SECTION III—SUPPLEMENTARY INFORMATION

### Organizational Information

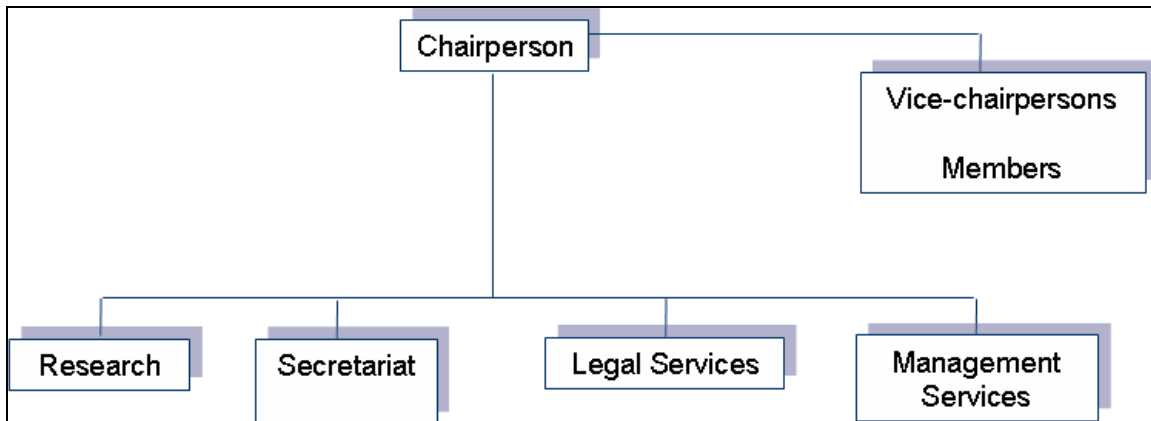
The Tribunal is an independent, investigative and quasi-judicial decision-making body that reports to Parliament through the Minister of Finance.

Under the *CITT Act*, the Tribunal is composed of up to nine full-time members, including a chairperson and two vice-chairpersons, who are appointed by the Governor in Council for a term of up to five years. The Chairperson is the Chief Executive Officer responsible for the assignment of cases to the members and for the management of the Tribunal's workload and resources.

The members of the Tribunal are supported by a permanent staff of 87 people. Its principal officers are:

- the **Secretary**, responsible for relations with the public and parties, the court registry functions of the Tribunal, editing and translation of Tribunal decisions and reports, and relations with other government departments and other governments;
- the **Director General, Research**, responsible for the investigative portion of inquiries, the economic and financial analysis of firms and industries, the investigation of complaints by potential suppliers concerning any aspect of the procurement process and other fact finding required for Tribunal inquiries;
- the **General Counsel**, responsible for the provision of legal services to the members and staff of the Tribunal; and
- the **Director, Management Services**, responsible for corporate services such as human resource management, financial management, information technology, material management, accommodation and administrative services, security and for relationships with the central agencies on all matters relating to administrative policy and procedure.

## Organization Structure



## Financial Tables

**Table 1: Comparison of Planned to Actual Spending  
(including full-time equivalents)**

(thousands of dollars)	2002-2003	2003-2004	2004-2005			
	Actual	Actual	Main Estimates	Planned Spending	Total Authorities	Actual
Adjudication of Trade Cases	9,232	9,054	9,605	9,605	9,186	9,185
General Economic Inquiries and References	894	270	210	210	909	883
<b>Total</b>	<b>10,126</b>	<b>9,324</b>	<b>9,815</b>	<b>9,815</b>	<b>10,095</b>	<b>10,068</b>

<b>Total</b>	10,126	9,324	9,815	9,815	10,095	10,068
Less: Non-respondable Revenue	(2)	-	-	-	-	-
Plus: Cost of Services Received Without Charge	2,149	2,293	-	2,389	-	2,372
<b>Net Cost of Department</b>	<b>12,273</b>	<b>11,617</b>	<b>9,815</b>	<b>12,204</b>	<b>10,095</b>	<b>12,440</b>

<b>Full-time Equivalents</b>	<b>90</b>	<b>87</b>	<b>94</b>	<b>94</b>	<b>94</b>	<b>84</b>
------------------------------	-----------	-----------	-----------	-----------	-----------	-----------

**Table 2: Use of Resources by Program Activities  
(thousands of dollars)**

2004-2005								
Program Activity	Budgetary						Plus: Non-Budgetary	Total
	Operating	Capital	Grants and Contributions	Total: Gross Budgetary Expenditures	Less: Respendable Revenue	Total: Net Budgetary Expenditures	Loans, Investments and Advances	
Adjudication of Trade Cases								
Main Estimates	9,605			9,605		9,605		9,605
Planned Spending	9,605			9,605		9,605		9,605
Total Authorities	9,186			9,186		9,186		9,186
Actual Spending	9,185			9,185		9,185		9,185
General Economic Inquiries and References								
Main Estimates	210			210		210		210
Planned Spending	210			210		210		210
Total Authorities	909			909		909		909
Actual Spending	883			883		883		883

**Table 3: Voted and Statutory Items  
(thousands of dollars)**

2004-2005					
Vote or Statutory Item	Truncated Vote or Statutory Wording	Main Estimates	Planned Spending	Total Authorities	Actual
25	Operating Expenditures	8,333	8,333	8,820	8,796
(S)	Contributions to Employee Benefit Plans	1,482	1,482	1,272	1,272
(S)	Spending of Proceeds from the Disposal of Surplus Crown Assets	-	-	3	-
	<b>Total</b>	<b>9,815</b>	<b>9,815</b>	<b>10,095</b>	<b>10,068</b>

**Table 4: Net Cost of Department**

(thousands of dollars)	2004-2005
Total Actual Spending	10,068
<i>Plus: Services Received without Charge</i>	
Accommodation Provided by the Department of Public Works and Government Services	1,837
Contributions Covering Employers' Share of Employees' Insurance Premiums and Expenditures Paid by the Treasury Board of Canada Secretariat (excluding revolving funds)	535
<b>2004-2005 Net Cost of Department</b>	<b>12,440</b>

**Table 5: Resource Requirements by Branch  
(thousands of dollars)**

2004-2005			
Organization	Adjudication of Trade Cases	General Economic Inquiries and References	Total
<b>Chairman's Office</b>			
Main Estimates	1,453	15	1,468
Planned Spending	1,453	15	1,468
<i>Total Authorities</i>	<i>1,312</i>	<i>10</i>	<i>1,322</i>
Actual Spending	1,323	14	1,337
<b>Secretariat</b>			
Main Estimates	1,857	6	1,863
Planned Spending	1,857	6	1,863
<i>Total Authorities</i>	<i>1,817</i>	<i>71</i>	<i>1,888</i>
Actual Spending	1,778	72	1,850
<b>Research</b>			
Main Estimates	3,236	146	3,382
Planned Spending	3,236	146	3,382
<i>Total Authorities</i>	<i>2,927</i>	<i>707</i>	<i>3,634</i>
Actual Spending	2,890	659	3,549
<b>Legal Services</b>			
Main Estimates	868	8	876
Planned Spending	868	8	876
<i>Total Authorities</i>	<i>808</i>	<i>20</i>	<i>828</i>
Actual Spending	854	26	880
<b>Management Services</b>			
Main Estimates	2,191	35	2,226
Planned Spending	2,191	35	2,226
<i>Total Authorities</i>	<i>2,322</i>	<i>101</i>	<i>2,423</i>
Actual Spending	2,340	112	2,452

## Contact for Further Information and Web Site

The Secretary  
Canadian International Trade Tribunal  
Standard Life Centre  
333 Laurier Avenue West, 17th Floor  
Ottawa, Ontario  
K1A 0G7

Telephone: (613) 993-3595

Fax: (613) 998-1322

E-mail: [secretary@citt-tcce.gc.ca](mailto:secretary@citt-tcce.gc.ca)

Tribunal's Web Site: [www.citt-tcce.gc.ca](http://www.citt-tcce.gc.ca)

## Legislation Governing the Work of the Canadian International Trade Tribunal

Canadian International Trade Tribunal Act	R.S.C. 1985 (4th Supp.), c. 47
Customs Act	R.S.C. 1985 (2d Supp.), c. 1
Excise Tax Act	R.S.C. 1985, c. E-15
Special Import Measures Act	R.S.C. 1985, c. S-15
Softwood Lumber Products Export Charge Act	R.S.C. 1985 (3d Supp.), c. 12
Energy Administration Act	R.S.C. 1985, c. E-6
Canadian International Trade Tribunal Regulations	S.O.R./89-35
Canadian International Trade Tribunal Procurement Inquiry Regulations	S.O.R./93-602
Canadian International Trade Tribunal Rules	S.O.R./91-499

## List of Statutory and Tribunal Reports

### Annual Report

- 1989-90 to 2004-2005
- Textile Reference—Annual Status Report 1994-95 to 2000-2001 (incorporated into the Tribunal's Annual Report as of 2002-2003.)

### Guides

- Procurement Review Process—A Descriptive Guide
- Safeguard Inquiry-Market Disruption-Imports from China-Guide for Complainant
- Safeguard Inquiry-Trade Diversion-Imports from China-Guide for Complainant
- Textile Reference Guide

### Pamphlets

- Introductory Guide on the Canadian International Trade Tribunal
- Information on Appeals from Customs, Excise and *SIMA* Decisions

- Information on Dumping and Subsidizing Inquiries and Reviews
- Information on Economic, Trade and Tariff Inquiries
- Information on Import Safeguard Inquiries and Measures
- Information on Procurement Review
- Information on Textile Tariff Investigations