

# **Canadian International Trade Tribunal**

## **Performance Report**

**For the  
period ending  
March 31, 1998**

# **Canadian International Trade Tribunal**

## **Performance Report**

**For the  
period ending  
March 31, 1998**

Paul Martin  
Paul Martin  
Minister of Finance

## Table of Contents

SECTION I: THE CHAIR’S MESSAGE .....	1
SECTION II: DEPARTMENTAL OVERVIEW .....	2
A. Mandate, Mission & Vision.....	2
Mandate.....	2
Mission .....	2
B. Operating Environment .....	3
Objectives .....	4
Strategic Priorities .....	4
Challenges .....	4
C. Departmental Organization.....	4
SECTION III: DEPARTMENTAL PERFORMANCE .....	6
A. Performance Expectations.....	6
B. Performance Accomplishments .....	7
SECTION IV: FINANCIAL PERFORMANCE.....	10
A. Financial Performance Overview.....	10
Financial Requirements by Authority.....	10
Comparison of Total Planned Spending to Actual Spending .....	10
Historical Comparison of Total Planned Spending to Actual Spending.....	11
SECTION V: OTHER INFORMATION.....	12
A. Contact for Further Information and Web Site.....	12
B. Legislation Governing the Work of the Canadian International Trade Tribunal .....	12
C. Listing of Statutory and Departmental Reports .....	13

<b>Canadian International Trade Tribunal</b>	
<b>Provides to Canadians:</b>	<b>To be demonstrated by:</b>
<b>Support of a fair and open trade system</b>	<ul style="list-style-type: none"> <li>➤ Upholding of the Tribunal's decisions by national and international appeal bodies.</li> <li>➤ Implementation of the Tribunal's recommendations by the government.</li> <li>➤ Publication of the Tribunal's decisions in a timely way.</li> <li>➤ The Tribunal's decisions are viewed as fair and impartial by domestic and international stakeholders.</li> </ul>

## Section I: The Chair's Message

I am pleased to present the Performance Report of the Canadian International Trade Tribunal (the Tribunal) for fiscal year 1997-98. The Tribunal is a key player within Canada's trade remedies system as a result of its jurisdiction under the *North American Free Trade Agreement* (NAFTA), the *Agreement on Internal Trade* (AIT) and the World Trade Organization (WTO) agreements.

The Tribunal is an organization characterized by a most diversified mandate, whose workload is externally generated. Fiscal year 1997-98 was no different in the sense that the Tribunal had to effectively coordinate a workload made up of dumping and/or subsidizing inquiries, appeals of decisions of the Department of National Revenue (Revenue Canada), procurement complaints, investigations into tariff relief requests and a reference from the Governor in Council on dairy blends. Nevertheless, the Tribunal met all statutory or prescribed deadlines.

As indicated in the Tribunal's Performance Report for fiscal year 1996-97, the Tribunal carried out an in-depth review of its procedures related to inquiries with a view to streamlining its activities. These efforts were carried on in 1997-98 and more specifically in the area of "requests for information" as a mean of better managing the inquiry and hearing processes. Finally, the Tribunal is pursuing its efforts to enhance accessibility by stakeholders through more extensive use of information technology.

The Tribunal's Performance Report for fiscal year 1997-98 demonstrates that the Tribunal has a key role in the government's trade and economic agenda.

---

Pierre Gosselin  
Chair

## Section II: Departmental Overview

### A. Mandate, Mission & Vision

#### *Mandate*

The Tribunal derives its authority from the *Canadian International Trade Tribunal Act* (the CITT Act), which received Royal Assent on September 13, 1988. The Tribunal's mandate is to:

- conduct inquiries into whether dumped or subsidized imports have caused material injury or retardation or are threatening to cause material injury to a domestic industry;
- hear appeals of Revenue Canada decisions made under the *Customs Act*, the *Excise Tax Act* and the *Special Import Measures Act* (SIMA),
- conduct investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their production operations;
- conduct inquiries into complaints by potential suppliers concerning procurement by the federal government that is covered by NAFTA, the AIT and the *WTO Agreement on Government Procurement* (AGP);
- conduct safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, serious injury to domestic producers; and
- conduct inquiries and provide advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance.

#### *Mission*

The Tribunal is a key player within Canada's trade remedies system. In its quasi-judicial role, the Tribunal protects Canadian producers from two important forms of unfair competition originating in foreign countries: injurious dumping and subsidizing. The Tribunal also acts as a court of easy access for appeals from Revenue Canada decisions on customs and excise matters and for complaints regarding designated government procurements.

In its advisory role, the Tribunal assists the government, through its fact-finding inquiries, in the formulation of strategies aimed at making Canadian producers more competitive in the global trade environment. Through its standing reference on textile tariff relief, the Tribunal assists the government in determining the levels of tariffs that will ensure that economic gains for Canada are maximized in an industry that faces changing market demands.

With the emergence of a freer and more open trading system, Canada must increasingly rely on a fair and efficient trade remedies system. Through its various jurisdictions, the Tribunal

contributes to the maintenance of a healthy Canadian economy and to fair trading relations with Canada's trade partners.

## **B. Operating Environment**

The Tribunal is an independent quasi-judicial body that carries out its statutory responsibilities in an autonomous and impartial manner and reports to Parliament through the Minister of Finance.

The economic climate is a key external factor affecting the work of the Tribunal. It is a responsive institution reacting entirely to external demand. Downturns in the domestic and global economies usually lead to the deterioration of markets and to increased competition for the remaining business. At such times, domestic producers become increasingly sensitive to competition from imports and increasingly likely to seek protection against them. This generally leads to a larger number of inquiries in response to dumping and/or subsidizing complaints under SIMA. The work of the Tribunal under SIMA is of special interest and importance to domestic producers, importers and exporters, to the primary industrial and service sectors of the economy, as well as to counsel and consultants active in trade matters.

NAFTA, the AIT and the AGP require signatory governments to maintain an independent bid challenge (complaint) authority. The CITT Act establishes the Tribunal as the complaint authority for Canada. As the bid challenge authority for federal government procurement, the Tribunal determines whether the government institution responsible for the procurement under review has met the requirements of international and national trade agreements and Canadian legislation. The work of the Tribunal is therefore of interest to potential suppliers as well as to federal departments and agencies, and crown corporations covered by NAFTA, the AIT and/or the AGP.

The Tribunal also hears appeals of Revenue Canada decisions made under the *Customs Act*, the *Excise Tax Act* and SIMA. The work of the Tribunal in this area has an impact on Canadian taxpayers, businesses, customs brokers and counsel involved in trade matters.

Pursuant to a reference from the Minister of Finance, the Tribunal investigates requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and makes recommendations in respect of those requests to the Minister of Finance. The work of the Tribunal under the textile reference is therefore of interest and importance to the apparel and textile sectors of the economy.

Finally, the Tribunal may be asked to conduct inquiries and provide advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance. Through these references, the work of the Tribunal is of interest and importance to key sectors of the Canadian economy.

In addition to having an impact on external stakeholders, the work of the Tribunal is of particular interest to the following federal departments: Finance, Foreign Affairs and

International Trade, National Revenue, Agriculture and Agri-Food, Industry, and Public Works and Government Services.

### ***Objectives***

The objective of the Tribunal's business line is to ensure that Canada can rely on a fair and efficient trade remedies system and that the government, through the Tribunal's fact-finding inquiries and standing reference, can formulate strategies aimed at making Canadian producers more competitive in the global trade environment.

### ***Strategic Priorities***

The Tribunal has established the following priorities:

- to maintain the quality of the Tribunal's findings, determinations and recommendations;
- to hear cases and make decisions expeditiously on matters that fall within the Tribunal's jurisdiction pursuant to acts of Parliament or regulations; and
- to maintain the Tribunal's independence and accessibility as a quasi-judicial organization.

### ***Challenges***

Some of the challenges facing the Tribunal include:

- ensure that the inquiry and appeal processes of the Tribunal remain accessible and affordable to all stakeholders; and
- implement new approaches to service delivery, in particular, the more extensive use of information technology that will allow the Tribunal to meet, with fewer resources, the externally generated demand for its services.

## **C. Departmental Organization**

### **Canadian International Trade Tribunal – Business Line**

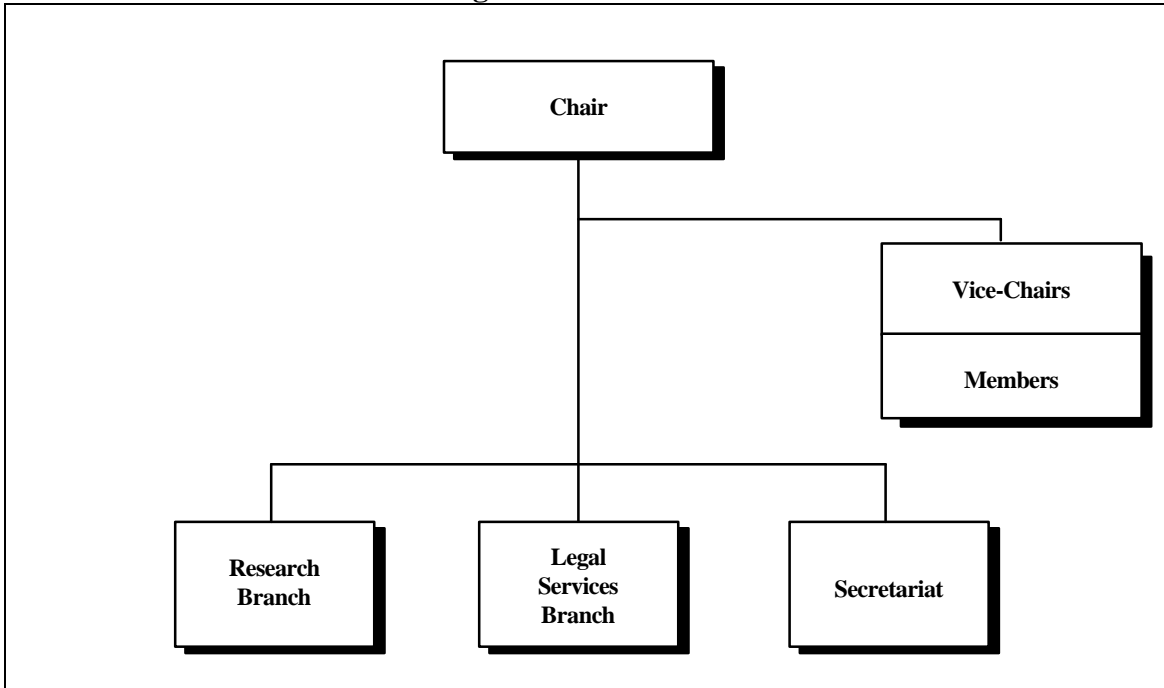
Due to its mandate and structure, the Tribunal has one business line — to act as an administrative court for dumping and subsidizing inquiries, appeals from customs and excise decisions and procurement complaints and as an advisor to the government and the Minister of Finance on a broad range of trade, economic or tariff related matters.

The Tribunal may be composed of up to nine full-time members, including a Chair and two Vice-Chairs, who are appointed by the Governor in Council for a term of up to five years. A maximum of five additional members may be temporarily appointed. The Chair is the Chief Executive Officer responsible for the assignment of members and for the management of the Tribunal's work. Members come from a variety of educational backgrounds, careers and regions of the country.



Members of the Tribunal are supported by a permanent staff of 87. Its principal officers are the Executive Director, Research, responsible for the economic and financial analysis of firms and industries, the investigation of complaints by potential suppliers concerning any aspect of the procurement process and for other fact finding required for Tribunal inquiries; the Secretary, responsible for administration, relations with the public, dealings with other government departments and other governments, and the court registrar functions of the Tribunal; and the General Counsel, responsible for the provision of legal services to the Tribunal.

### Organization Structure



In carrying out most of its responsibilities, the Tribunal conducts hearings that are open to the public. In some instances, it may decide cases on the basis of written submissions. Hearings are normally held in Ottawa, Ontario, the location of the Tribunal’s offices although videoconferences and regional hearings are used periodically to increase accessibility to the Tribunal. The Tribunal has rules and procedures similar to those of a court of law, but not quite as formal or strict. The CITT Act states that hearings, conducted generally by a panel of three members, should be carried out as “informally and expeditiously” as the circumstances and considerations of fairness permit. The Tribunal has the power to subpoena witnesses and require parties to submit information, even when it is commercially confidential. The CITT Act contains provisions that strictly control access to confidential information.

The Tribunal’s decisions may be reviewed by or appealed to, as appropriate, the Federal Court of Canada and, ultimately, the Supreme Court of Canada, or a binational panel under NAFTA, in the case of a decision affecting the US and/or Mexican interests. Governments that are members of the WTO may appeal the Tribunal’s decisions to a dispute settlement panel under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

### Section III: Departmental Performance

#### A. Performance Expectations

This performance report addresses the Tribunal's departmental results against commitments made in the 1997-98 Part III of the Estimates and the chart of Key Results Commitments found in the 1997 Treasury Board President's Annual Report to Parliament. During 1997-98, the Tribunal developed its new Planning, Reporting and Accountability Structure (PRAS) which sets out the business line, priorities and commitments. This performance report is based on the new PRAS and reports against the commitments which are found at the beginning of this document. However, priorities set out in the 1997-98 Part III of the Estimates can be found under the following performance accomplishments section.

#### Crosswalk Between Former Part III and Key Results Commitments from the New PRAS

<b>1997-98 Estimates Part III Expenditure Plan</b>	<b>Key Results Commitments</b>
<ul style="list-style-type: none"> <li>➤ The degree to which the Tribunal's adjudications and determinations stand up to domestic and international scrutiny when challenged through appeal and review mechanisms.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Upholding the Tribunal's decisions by national and international appeal bodies.</li> </ul>
<ul style="list-style-type: none"> <li>➤ The acceptability of the Tribunal's recommendations as a basis for government action and the extent to which they are implemented.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Implementation of the Tribunal's recommendations by the government.</li> </ul>
<ul style="list-style-type: none"> <li>➤ The ability to meet statutory time limits without sacrificing quality.</li> <li>➤ The promptness with which it hears appeals and issues decisions.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Publication of the Tribunal's decisions in a timely way.</li> </ul>
<ul style="list-style-type: none"> <li>➤ The perception by the Canadian industry and interest groups that the work of the Tribunal is thorough, reasoned and impartial.</li> </ul>	<ul style="list-style-type: none"> <li>➤ The Tribunal's decisions are viewed as fair and impartial by domestic and international stakeholders.</li> </ul>

## B. Performance Accomplishments

<b>Canadian International Trade Tribunal</b>	
Planned Spending	7,949,000
<i>Total Authorities</i>	<i>7,949,000</i>
<b>1997-98 Actuals</b>	<b>7,792,560</b>

As previously stated, the economic climate is a key external factor affecting the work of the Tribunal. It is a responsive institution reacting entirely to external demand. It may not refuse any reference from the Governor in Council or the Minister of Finance, or refuse to hear any individual or firm on any matters within its jurisdiction.

The Tribunal's challenge is to support a fair and open trade system. In this context, the Tribunal's performance is assessed against the following criteria:

➤ **Upholding of the Tribunal's Decisions by National and International Appeal Bodies**

The Tribunal's decisions may be reviewed by or appealed to the Federal Court of Canada, or a binational panel under NAFTA or a WTO dispute settlement panel.

Of the five cases, under SIMA, that were before the Federal Court of Canada in fiscal year 1997-98, none were remanded to the Tribunal. One application was quashed, two were dismissed and one was discontinued, and the proceedings in one case were suspended. As for cases before a binational panel, two cases were in progress at year end. No Tribunal decisions were appealed to a WTO dispute settlement panel.

As for Tribunal decisions regarding appeals from Revenue Canada decisions under the *Customs Act*, the *Excise Tax Act* and SIMA, the Federal Court of Canada dealt with 15 appeals of Tribunal decisions. The results of these appeals were as followed : 3 appeals were discontinued, 8 were dismissed, 1 was remanded to the Tribunal and 3 were allowed.

➤ **Implementation of the Tribunal's Recommendations by the Government**

As the bid challenge authority for federal government procurement, the Tribunal makes determinations which may consist of a recommendation to the government institution (such as re-tendering, re-evaluating or providing compensation) and the award of reasonable costs to a prevailing complainant. In fiscal year 1997-98, the Tribunal made 16 determinations, 7 of which included recommendations that were all implemented by the government institution.

As for its mandate under the textile reference, the Tribunal makes recommendations to the Minister of Finance on whether or not to grant tariff relief on imported textile inputs. Five recommendations were issued to the Minister of Finance in 1997-98, and all recommendations were implemented by the Minister of Finance.

➤ **Publication of the Tribunal's Decisions in a Timely Way**

The Tribunal's decisions regarding dumping and/or subsidizing and procurement complaints are subject to statutory deadlines. In fiscal year 1997-98, 19 decisions were issued covering these two areas of the Tribunal's mandate. All decisions were issued within the statutory deadlines.

As for appeals of Revenue Canada decisions, the Tribunal rendered 177 decisions. The Tribunal's objective is to issue its decisions within 120 days. The Tribunal did not systematically meet the 120-day deadline. Due to its diversified mandate, the Tribunal must ensure that those areas of its mandate that are subject to statutory deadlines are dealt with on a priority basis. The Tribunal's decisions regarding appeals of Revenue Canada decisions are not subject to statutory deadlines and must, in certain circumstances, be delayed in order to meet statutory requirements in other areas of its mandate. This explains why the Tribunal did not systematically meet the 120-day deadline. The Tribunal has made it an objective for 1998-99 to more systematically meet the 120-day deadline.

Finally, the Tribunal issued five reports to the Minister of Finance further to requests for tariff relief on imported textile inputs. The Tribunal's efforts in 1998-99 will focus on being more expeditious in the commencement of investigations into requests for tariff relief. This initiative is, in part, in response to representations made to the Tribunal by some of the stakeholders to the textile reference investigation process. The Tribunal's objective is to commence an investigation no more than 30 days after a request is considered to be properly documented.

➤ **Tribunal's Decisions are Viewed as Fair and Impartial by Domestic and International Stakeholders**

The Tribunal has established a Bench and Bar Committee to promote discussion on issues of importance with the Canadian Bar Association and trade consultants. Meetings are held on a quarterly basis and allow participants to present their views and concerns about the Tribunal's processes and procedures, while also allowing the Tribunal to seek the views of stakeholders on proposed initiatives.

The Tribunal also communicates with its stakeholders to seek their views when considering the introduction of new procedures. It also issues practice notices and guidelines to convey its new procedures to the community at large.

These consultative mechanisms, therefore, allow the Tribunal to remain accessible to various groups of stakeholders and to take advantage of their points of view. The Tribunal's processes and procedures have benefited from stakeholders' comments and suggestions.

## **Year 2000 Readiness**

In September 1997, representatives of the Year 2000 Project Office at the Treasury Board reviewed the Tribunal's state of readiness. The Year 2000 Project Office came to the conclusion that there were no concerns with the Tribunal's Year 2000 compliance.

This assessment applies to the Tribunal's corporate systems (human resources information system and financial information system), as well as to applications that make up the Tribunal's office automation suite.

## **Service Delivery**

The Tribunal has made significant efforts to enhance service delivery to its stakeholders. Enhancements have included providing access to information, on the Tribunal and its publications, notices of inquiry and decisions using the electronic medium. All decisions rendered by the Tribunal since its establishment in December 1988 are available on its Web site. The Tribunal also makes available its notices and decisions on *Factsline*, a service that can be accessed using a telecopier. The Tribunal also has a service that advises interested parties, via E-mail, that new documents have been posted on its Web site.

The Tribunal is also pursuing its efforts to implement a secure communications package that will allow the more expeditious transmission of information between the Tribunal and parties in inquiries. Finally, the Tribunal is still planning to introduce, at a later date, the automation of its administrative record of proceedings.

## Section IV: Financial Performance

### A. Financial Performance Overview

**Financial Table 1**  
**Financial Requirements by Authority**  
**(thousands of dollars)**

Vote		1997-98 Planned Spending	1997-98 Total Authorities	1997-98 Actual
<b>Canadian International Trade Tribunal</b>				
35	Operating Expenditures	6,962.0	6,962.0	6,805.6
(S)	Contributions to Employee Benefit Plan	987.0	987.0	987.0
<b>Total</b>		<b>7,949.0</b>	<b>7,949.0</b>	<b>7,792.6</b>

Total authorities are main estimates plus supplementary estimates plus other authorities.

**Financial Table 2**  
**Comparison of Total Planned Spending to Actual Spending**  
**Departmental Planned Versus Actual Spending by Business Line (thousands of dollars)**

Business Line	FTE's	Operating <sup>1</sup>	Capital	Voted Grants & Contributions	Subtotal: Gross Voted Expenditures	Statutory Grants and Contributions	Total Gross Expenditures	Less: Revenue Credited to the Vote	Total Net Expenditures
<b>Canadian International Trade Tribunal</b>	98	7,949.0	-	-	7,949.0	-	7,949.0	-	7,949.0
<i>(Total authorities)</i>	98	7,949.0	-	-	7,949.0	-	7,949.0	-	7,949.0
<b>(Actuals)</b>	<b>84</b>	<b>7,792.6</b>	-	-	<b>7,792.6</b>	-	<b>7,792.6</b>	-	<b>7,792.6</b>
<b>Total</b>	98	7,949.0	-	-	7,949.0	-	7,949.0	-	7,949.0
<i>(Total authorities)</i>	98	7,949.0	-	-	7,949.0	-	7,949.0	-	7,949.0
<b>(Actuals)</b>	<b>84</b>	<b>7,792.6</b>	-	-	<b>7,792.6</b>	-	<b>7,792.6</b>	-	<b>7,792.6</b>
<b>Other expenses</b>									
<b>Cost of services provided by other departments</b>									
<i>(Total authorities)</i>									2,034.0
<b>(Actuals)</b>									<b>2,034.0</b>
<b>Net Cost of the Program</b>									
<i>(Total authorities)</i>									9,983.0
<b>(Actuals)</b>									<b>9,826.6</b>

**Note:** Numbers in italics denote Total Authorities for 1997-1998 (main and supplementary estimates and other authorities).

**Bolded numbers** denote actual expenditures in 1997-98.

1. Operating includes contributions to employee benefit plans.

**Financial Table 3**  
**Historical Comparison of Total Planned Spending to Actual Spending**  
**(thousands of dollars)**

<b>Business Line</b>	<b>Actual 1995-96</b>	<b>Actual 1996-97</b>	<b>Planned Spending 1997-98</b>	<b>Total Authorities 1997-98</b>	<b>Actual 1997-98</b>
<b>Canadian International Trade Tribunal</b>	7,850.7	8,085.0	7,949.0	7,949.0	7,792.6
<b>Total</b>	<b>7,850.7</b>	<b>8,085.0</b>	<b>7,949.0</b>	<b>7,949.0</b>	<b>7,792.6</b>

Total authorities are main estimates plus supplementary estimates plus other authorities.

Amounts include contributions to employee benefit plans.

**Financial table Nos. 4 to 15 do not apply to the Canadian International Trade Tribunal.**

## Section V: Other Information

### A. 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 No.: (613) 993-3595  
Telecopier No.: (613) 998-1322  
E-Mail: secretary@citt.gc.ca

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

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

<i>Canadian International Trade Tribunal Act</i>	R.S.C. 1985, c. 47 (4th Supp.)
<i>Customs Act</i>	R.S.C. 1985, c. 1 (2nd Supp.)
<i>Excise Tax Act</i>	R.S.C. 1985, c. E-15
<i>Special Import Measures Act</i>	R.S.C. 1985, c. S-15
<i>Softwood Lumber Products Export Charge Act</i>	R.S.C. 1985, c. 12 (3rd Supp.)
<i>Energy Administration Act</i>	R.S.C. 1985, c. E-6
<i>Canadian International Trade Tribunal Regulations</i>	SOR/89-35, December 27, 1988, <i>Canada Gazette</i> Part II, Vol. 123, No. 2 at 255, amended; SOR/93-600, December 15, 1993, <i>Canada Gazette</i> Part II, Vol. 127, No. 26 at 4539
<i>North American Free Trade Agreement Procurement Inquiry Regulations</i>	SOR/93-602, December 15, 1993, <i>Canada Gazette</i> Part II, Vol. 127, No. 26 at 4547
<i>Canadian International Trade Tribunal Rules</i>	SOR/91-499, August 14, 1991, <i>Canada Gazette</i> Part II, Vol. 125, No. 18 at 2912

In addition, the following agreements also impact on the work of the Tribunal:

*Agreement on Internal Trade*  
*North American Free Trade Agreement*  
World Trade Organization Agreements



## **C. Listing of Statutory and Departmental Reports**

### **Annual Reports**

- 1989-90 to 1997-98

### **Annual Status Reports**

- Textile Reference: Annual Status Report - October 1, 1994, to September 30, 1995
- Textile Reference: Annual Status Report - October 1, 1995, to September 30, 1996
- Textile Reference: Annual Status Report - October 1, 1996, to September 30, 1997

### **Bulletins**

- April-June 1996 - January-March 1998

### **Guides**

- *Introductory Guide on the Canadian International Trade Tribunal*
- *Textile Reference Guide*
- *Procurement Review Process - A Descriptive Guide*
- *Procurement Cost Guidelines*

### **Pamphlets**

- *Information on Dumping and Subsidizing Inquiries and Reviews*
- *Information on Appeals from Customs, Excise, and SIMA Decisions*
- *Information on Textile Tariff Investigations*
- *Information on Procurement Review*

### **Practice Notice**

- *Acceptance of National Customs Ruling in the Filing of Requests for Tariff Relief on Imported Textile Inputs*