

CITT / CBA Bench and Bar Committee
October 29, 1996
333 Laurier Avenue West

MINUTES

I Attendance: Anthony Eyton, G. Stobo, H. Cheetham, R. Erdmann, S. Grimes, J. Archambault, S. Shainfarber, T. Akin, D. Kubesh, R. Cheng, R. Dattu, R. Wagner, B. Swick-Martin, P. MacPherson. Regrets: M. Ciavaglia, P. Kirby.

II Items

1. G. Stobo reported that the CITT had issued a Discussion Paper on the SIMA Procedural Review, and that it had been circulated to stakeholders. From the representations received, there was consensus on some points and a lack of consensus on other matters. The CITT, after taking into account the representations, had issued a series of recommendations. S. Shainfarber discussed the changes. The thrust of the changes is to advance the timing for conducting research, so that during the latter stages of the inquiry and at the hearing there would be greater focus on the issues of greatest significance. Furthermore, the CITT is looking to counsel for early identification of the key issues, and early and timely documentation of the evidence in support of the position of the parties. S. Shainfarber went on to outline the new inquiry schedule for section 42 inquiries and explained the basis for the new schedule based on the aforementioned objectives.
2. G. Stobo reported on the participation by the CITT in the SIMA legislative review process. The joint Committees of the House of Commons had been given very wide ambit in respect of their review of SIMA. The CITT's position was to be presented on November 29, 1997 just shortly after the presentation of the CBA on November 25, 1997. R. Dattu noted that CBA position before the Committees had yet to be formulated, but it was contemplated that the CBA would deal with three areas in principle: bifurcation, greater transparency, and public interest.
3. G. Stobo reported on the progress on the Textile Tariff Relief guidelines. A discussion paper had been issued on May 9, 1996 and consultations held thereafter. The CITT was virtually at the stage of issuing new guidelines.
4. G. Stobo reported on the thrust of the CITT to get through many of the cases in its inventory. He reported that there were 900 cases held in abeyance pending the resolution of prior appeals either at the CITT or at the Federal Court. Some had been pending for over 6 years. The CITT had made significant inroads in obtaining resolutions or withdrawals of various appeals and since January 1996 to the date of the meeting, some 300 appeals had been withdrawn, many because they were not arguable cases. The CITT was also concerned about requests for postponements which were not based on valid reasons, and the CITT had issued a draft Practice Note setting out the basis upon which the CITT would consider requests for postponements. Consent from the Department of Justice was, according to the Notice, to be only one of several factors the Tribunal would take into account when considering applications to postpone. Some discussions ensued as to the difficulty counsel faced in getting access to relevant documents before the dates set for the CITT hearings because of delays encountered under the Access to Information Act. G. Stobo indicated that in some of these instances, it may be that the CITT could assist in

the obtaining of documents necessary for a proper hearing of an appeal if the parties bring these problems to the attention of the Tribunal in a timely way.

5. S. Grimes reported on the matter of electronic transfer of information. The CITT is looking at means of transferring information to participants. This is seen to be the next big project for the CITT. The CITT is looking at ways in which the NEB is transferring information to participants as it is one of the federal institutions that is furthest along in dealing with electronic transfer of information.
6. G. Stobo reported on the federal Administrative Hearings Act, and noted that this legislation provided guidelines rather than legislative rules for administrative Tribunals conducting hearings. There is a great deal of consultation still to be done on this new legislation.
7. G. Stobo also spoke to Bill C-49, the Administrative Tribunal Remedies and Disciplines Act which touches on disciplinary mechanisms for Tribunal members, tenure of Chairs of agencies, and other matters affecting Tribunal members.
8. T. Akin and G. Stobo agreed to meet after the meeting to set a date for the next meeting.