

**CITT / CBA Bench and Bar Committee**  
**April 2, 1997**  
**333 Laurier Avenue West**

**MINUTES**

- I     **Attendance:** A. Eyton, P. Close, R. Erdmann, G. Stobo, M. Granger, J. Archambault, D. Attwater, T. Akin, G. Cranker, R. Cheng, R. Wagner, P. Kirby, R. Dattu, P. MacPherson.  
**Regrets:** B. Swick-Martin.
- II     **Items**
1.     **Minutes:** The Minutes as circulated were approved.
2.     **Procurement Review Cost Guidelines:** G. Stobo reported on the government procurement review cost guidelines. In formulating its guidelines, the Tribunal looked at the guidelines of other agencies including the CRTC, and also the guidelines of the Procurement Review Board. Copies of the cost guidelines were circulated for consultations. Input was received from Public Works. The guidelines provide that costs can be awarded against any party, including the initiator. The guidelines were almost ready to be distributed at the time of the meeting (but this had not yet occurred). The cost guidelines will be followed insofar as possible. In due course, the guidelines would be put on to the Internet home page of the Tribunal.
3.     **Revised SIMA Procedures:** G. Stobo reported on the procedural changes undertaken by the Tribunal subsequent to the consultations undertaken with respect to the SIMA process. All in all, the Tribunal has found that the new procedures have shortened the hearing time. The new SIMA procedures were applied partly in the Garlic and Yellow Onion cases. The Poly-Iso case was the first case where the guidelines were fully applied, and the result was a more focused inquiry with the record being much clearer and concise than in previous proceedings. The entire hearing process took three days. It was emphasized that in section 42 enquiries, the pre-PD consultations were considered a very important part of the process. One of the many benefits of the pre-PD consultations is that the questionnaires can be customized. Counsel may have to disclose aspects of their case much sooner through responses to questionnaires. The balance of the openness in the process is to be achieved through the interrogatories process. There is going to be an increased emphasis on deadlines. In respect of the interrogatories process, the Tribunal noted that it had set out two time periods for issuing interrogatories, with the responses in respect of the first set of interrogatories due within ten days, and the responses in respect of the second set of interrogatories due within three days. Highly relevant material has been produced through the interrogatories process. While there has been some confusion as to how many questions can be asked in the second set of interrogatories, and whether questions that should have been asked in the first set of interrogatories can be asked through the second set of interrogatories, the Tribunal has generally been able to sort out these matters. The new procedures also call for injury allegations to be filed much sooner, with specific allegations due as part of the completed questionnaire. Generally, no additional allegations will be permitted after the filing of the questionnaires.

The Tribunal is in the process of considering guidelines on how to deal with confidential information elicited through the interrogatories.

The new procedure permits producers to file reply submissions 7 to 8 days after the exporters/importers have filed their cases. The reply submissions process has worked well.

The Tribunal is aware that the new process may have to be modified depending on the size of case, the nature of the case, etc., and this will be done as necessary on a case by case basis.

4. **SIMA Review:** G. Stobo provided a brief summary of the Government's response to the joint Parliamentary Committee's Report on SIMA. All in all, the government has accepted most of the recommendations, with one recommendation to be further studied, and one rejection.
5. **Value for Duty Cases:** G. Stobo advised that, for the moment, the customs value for duty cases in respect of royalties are to be held in abeyance pending the decision of the Federal Court in *Reebok*. It is expected that the *Reebok* decision may answer many of the questions in respect of appeals that are presently pending before the Tribunal.
6. **Consolidation of Appeals:** There was some discussion on the matter of the federal sales tax cases that are presently pending before the Tribunal wherein the issue is the determination of the "sale price". Many of these, if not all of these cases are in respect of automobiles and other vehicles. Discussions centred around the appropriateness of joining these cases when each of the assessments may be based on different sets of facts and different assessment methods. Generally, the view of CBA members was that the appeals ought not to be consolidated as to do so would lengthen the proceedings considerably without necessarily achieving efficiencies which might initially have been contemplated as being possible.
7. **Electronic Transfer of Information:** M. Granger reported on the improvements being considered for the CITT website. These will be implemented as of September, 1997. A new search engine is to be available on the website. It is also contemplated that all procurement review decisions from 1989 to December, 1993 will be loaded onto the website. It is this Tribunal's intention to close down the BBS. M. Granger also reported that the Tribunal is undertaking a feasibility study of electronic transfer of information. Direction in this regard is difficult to get as there is very little experience to draw from. Consultations will have to be undertaken with all stakeholders before electronic transfer of information is undertaken. Issues with respect to compatibility with systems used by law firms, as well as the compatibility with the Department of National Revenue, will have to be addressed.
8. **Next Meeting:** It was decided that the next meeting would be held on October 16, 1997.