

**CITT/CBA Bench and Bar Committee**  
**October 16, 1997**  
**333 Laurier Avenue West**

**MINUTES**

- I. **Attendance:** P. Close, R. Erdman, G. Stobo, M. Granger, J. Archambault, H.\*Cheetham, S. Shainfarber, R. Roy, T. Akin, G. Cranker, R.\*Wagner, R.\*Cheng, R. Woyiwada, R. Dattu, P. MacPherson. **Regrets:** B. Swick-Martin, P. Kirby.
  
- II. **Items**
  1. **Minutes:** The Minutes as circulated were approved.
  
  2. **Legislative SIMA Review:** G. Stobo advised that the drafting instructions for the SIMA legislative amendments had been provided, drafting was ongoing, and expected to be completed by December 1997. The legislation will be tabled in Parliament in the Spring.
  
  3. **Interrogatories in SIMA Cases:** G. Stobo advised that formalized procedures for issuing interrogatories had been in place for approximately one year. The experience has been \*chequered\* with \*chaos\* in some cases. The current formalized approach was implemented to avoid the previous experience of interrogatories being used without the benefit of rules and time frames. The aim is to have transparent rules and guidelines. A focus group made up of practitioners and the Tribunal staff will be convened in the next six to eight weeks to review the Tribunal\*s current interrogatory guidelines, so as to refine and improve on the procedures for issuing interrogatories. R. Dattu will co-ordinate on behalf of the CBA.
  
  4. **Disclosure of Allegations:** G. Stobo advised that the disclosure of allegations of lost sales and price erosion in SIMA cases is also under consideration. To date, disclosure matters have been dealt with on a \*need-to-know basis\* test on the part of those seeking greater disclosure. Typically, those seeking to maintain confidentiality have to bear the onus of explaining why the information should not be disclosed.
  
  5. **Scheduling:** The Tribunal is getting stricter in requiring counsel to abide by time limits in SIMA cases. The Tribunal staff is spending more time trying to get the schedule as realistic as possible, with the expectation that thereafter all parties will abide by the schedule.
  
  6. **Appeals:** G. Stobo advised that the value-for-duty cases are now being scheduled as the Reebok case had been decided by the Federal Court - Trial Division. The Tribunal will not wait for the Reebok case to be decided by the Federal Court of Appeal. The Tribunal has rendered its decision in Nike and the decision in Ralph Lauren is to be issued imminently. There are ten to twelve value-for-duty cases scheduled to be heard starting January 1998. Discussion ensued as to whether it would be best for the Tribunal to hold cases in abeyance when there are further appeals from the Federal Court Trial Division to the

Federal Court of Appeal. It was felt by many practitioners that while appeals are pending, and provided such appeals are being pursued (without unjustified delays), it would be preferable for the Tribunal to wait until the outcome of all appeals.

7. **Textiles:**

(a) In textile reviews, tariff classification rulings will be requested from Revenue Canada by the Tribunal and a Notice will be put out as to the correct tariff classification. A new Practice Note will be issued by the Tribunal to this effect. At present, the textile reviews are taking up approximately 10% of the Tribunal\*s time.

(b) With respect to textile tariff relief measures scheduled to expire, the Tribunal expects to send out Notices asking whether parties are interested in seeking a renewal of tariff relief.

8. **Secretariat Update:** M. Granger gave an update of the various initiatives of the Tribunal with respect to automation, and the work being done on the Tribunal website. Retrospective loading on the website is now complete back to December 1988. Furthermore, the website now contains Government Procurement decisions. The website can accommodate the filing of procurement complaints. Further initiatives are being undertaken to allow for filing of documents electronically (i.e., log meter). The BBS is to be discontinued in favour of use of the website. The fax line of the Tribunal will continue to be available. There is no longer to be a hard-copy publication of the Bulletin.

9. **Next Meeting:** To be arranged.