

Canadian International Trade Tribunal

**2001-2002
Estimates**

Part III - Report on Plans and Priorities

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Approved

Minister of Finance

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Section I: Chairperson's Message

I am pleased to present the Report on Plans and Priorities (RPP) of the Canadian International Trade Tribunal (the Tribunal) for fiscal year 2001-2002.

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), the World Trade Organization (WTO) agreements, the *Canada-Israel Free Trade Agreement*, the *Canada-Chile Free Trade Agreement*, the *Canada-Korea Agreement on the Procurement of Telecommunications Equipment*, and various statutes.

In fiscal year 2001-2002, the Tribunal will pursue its efforts to ensure a smooth transition to the new processes that have been put in place further to the proclamation of legislative amendments to the *Special Import Measures Act* (SIMA) and the *Canadian International Trade Tribunal Act* (CITT Act). Even though these amendments were proclaimed on April 15, 2000, it is only in fiscal 2001-2002 that the measures relating to expiry reviews and public interest will be applied for the first time by the Tribunal. In order to facilitate this transition, the Tribunal has prepared draft guidelines that will assist stakeholders in familiarizing themselves with the new procedures.

For the last few years, I have been reporting on the Tribunal's initiative aimed at maximizing the use of information technology in its day-to-day activities. I am pleased to report that the Tribunal has made major strides in its initiative relating to the automation of the administrative record in Tribunal proceedings. Fiscal year 2001-2002 should see the Tribunal migrate from a pilot project mode to an operational environment with benefits to be derived both by the Tribunal and by parties and counsel appearing before the Tribunal. Also, in line with the Government On-line initiative, the Tribunal will review and evaluate measures that could be taken to facilitate stakeholders' interaction with the Tribunal through the use of information technology.

The increasing number of procurement cases, as well as legislative amendments to SIMA and the CITT Act, has had a significant impact on the workload of the Tribunal. Our challenge in fiscal year 2001-2002 will be to devise means by which the Tribunal will be able to meet statutory deadlines without compromising the quality of its findings, determinations and recommendations.

Pierre Gosselin

Section II: Departmental Overview

2.1 What's New

On April 15, 2000, amendments to SIMA and the CITT Act were proclaimed. Under the amendments to SIMA, the Tribunal makes the preliminary injury determination previously made by the Commissioner of the Canada Customs and Revenue Agency (CCRA). The amendments also change the way in which the public interest question is dealt after a finding of injury. Finally, the amendments create distinct interim and expiry reviews. In an expiry review, the Commissioner makes the determination of whether there is a likelihood of continued or resumed dumping or subsidizing, a determination that was previously made by the Tribunal. The Tribunal continues to make the determination of whether the continued or resumed dumping or subsidizing is likely to cause injury. To assist parties and stakeholders to adjust to these new procedures, the Tribunal has established draft guidelines containing details on how parties can participate in the proceedings.

The governments of the Republic of Korea and Canada entered into an *Agreement on the Procurement of Telecommunications Equipment* in July 1999. The agreement establishes rules and procedures with respect to government procurement of telecommunications equipment and incidental services by manufacturers and service providers of both countries. Under the terms of the agreement, the federal government is required to adopt and maintain bid procedures for procurements covered by the agreement.

Given that the Tribunal has the function of hearing procurement complaints originating under NAFTA, the AIT and the *Agreement on Government Procurement*, the federal government has determined that the Tribunal will be Canada's bid challenge authority in respect of the *Agreement on the Procurement of Telecommunications Equipment*. Therefore, the *Canadian International Trade Tribunal Procurement Inquiry Regulations* were amended to permit potential suppliers to the Canadian market to appeal to the Tribunal the procurement process relating to the award of contracts. The amendments to these regulations came into force on November 1, 2000.

2.2 Mandate, Roles and Responsibilities

The Tribunal derives its authority from 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 decisions of the CCRA made under the *Customs Act*, the *Excise Tax Act* and SIMA;
- 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*, and the *Canada-Korea Agreement on the Procurement of Telecommunications Equipment*;
- conduct investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their production operations;

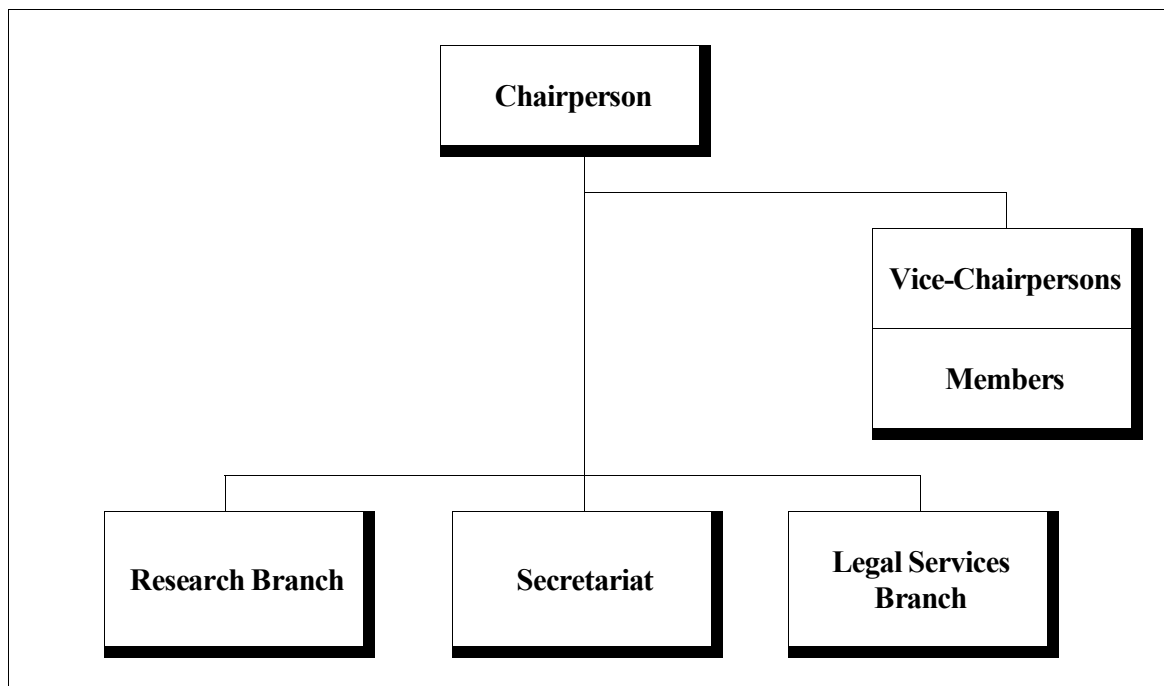
- conduct inquiries and provide advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance; and
- conduct safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, serious injury to domestic producers.

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 decisions of the CCRA on customs and excise matters and for complaints regarding designated government procurement.

In its advisory role, the Tribunal assists the government through its fact-finding inquiries and public hearings, in the resolution of complex economic and trade issues. The Tribunal is guided in these matters by the mandate it receives from the Governor in Council. Through its textile reference, the Tribunal assists the government in determining the levels of tariffs that will ensure that economic gains for Canada are maximised 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 trading partners.

Organization Structure



2.3 Departmental/Program Objective

In an economically and legally sound manner, to conduct investigations and inquiries and to make findings and, as directed, recommendations on matters affecting Canada's commerce and international trade, and to decide on taxpayers' appeals from government customs and excise tax assessments and determinations.

2.4 Planning Context

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 turn away any individual, organization or firm that meets the minimum conditions for access. Downturns in the domestic and global economies usually lead to a deterioration of markets and to increased competition for the remaining businesses. At such times, domestic producers become increasingly sensitive to competition from imports and increasingly likely to seek protection against unfair trade practices. This generally leads to a larger number of inquiries in response to dumping and subsidizing complaints. The Canadian industry is also sensitive to trade petitions and actions brought in the United States where there is a risk of trade diversion from the United States to Canada. Moreover, as Canadian trade liberalizes and U.S. tariffs decrease, the Tribunal's procedures become increasingly important to Canadian businesses as one of the only remaining bulwarks against unfair trade.

The CITT Act contains broad provisions under which the government or the Minister of Finance may ask the Tribunal to conduct an inquiry on any economic, trade, tariff or commercial matter. In an inquiry, the Tribunal acts in an advisory capacity, with powers to conduct research, receive submissions and representations, find facts, hold public hearings and report, with recommendations as required, to the government or the Minister of Finance. As stated earlier, the Tribunal is a responsive institution reacting entirely to external demand. When seized with a reference from the government or the Minister of Finance, the Tribunal must adjust its activities and resources accordingly in order to be in a position to lay out its inquiry within the prescribed time frame.

The legislative agenda of government influences the Tribunal's business line. The recent proclamation of legislative amendments to SIMA and the CITT Act affects the Tribunal's business line. Amendments to SIMA confer additional responsibilities on the Tribunal in the areas of the preliminary determination of injury and the carrying out of interim reviews. In addition, changes to the public interest provisions could result in these provisions being used more often. The Tribunal's business line is, therefore, being influenced by external factors. The challenge for the Tribunal is to successfully adjust its procedures and processes so that it can fulfil, in a fully satisfactory manner, additional responsibilities conferred on it by the government.

Canadian trade policies also have an impact on the Tribunal's business line. The *Canada-Korea Agreement on the Procurement of Telecommunications Equipment* required amendments to the *Canadian International Trade Tribunal Procurement Inquiry Regulations*. In previous years, as a result of the *Canada-Israel Free Trade Agreement* and the *Canada-Chile Free Trade Agreement*, the CITT Act had to be amended in the area of safeguards.

Greater awareness by potential suppliers of the Tribunal's jurisdiction relating to bid challenges under NAFTA and the AIT explains, in part, the steady increase, year after year, in the number of complaints filed with the Tribunal. Here again, the Tribunal does not control the influx of

complaints, but it must find ways of meeting statutory deadlines with a fixed number of full-time equivalents.

2.5 Departmental Planned Spending

Table 2.1: Departmental Planned Spending

(\$ thousand)	Forecast Spending 2000-2001	Planned Spending 2001-2002	Planned Spending 2002-2003	Planned Spending 2003-2004
Budgetary Main Estimates (gross)	8,607	8,746	8,746	8,746
Less: Respendable revenue	-	-	-	-
Total Main Estimates	8,607	8,746	8,746	8,746
Adjustments **	288	-	-	-
Net Planned Spending	8,895*	8,746	8,746	8,746
Less : Non-respendable revenue	-	-	-	-
Plus : Cost of services received without charge	2,097	2,138	2,175	2,206
Net cost of Program	10,992	10,884	10,921	10,952
Full-time Equivalents	88	94	94	94

* Reflects the best forecast of total net planned spending to the end of the fiscal year.

** Adjustments are to accommodate approvals obtained since the Main Estimates and are to include Budget initiatives, Supplementary Estimates, etc.

Section III: Plans, Results and Resources

3.1 Business Line Details

CANADIAN INTERNATIONAL TRADE TRIBUNAL

3.1.1 Business Line Objective

The objective of the Tribunal's business line is to provide a fair and efficient trade remedies system to the Canadian public, the private business sector and commercial interests, and to offer the government, through the Tribunal's fact-finding inquiries and standing reference, the best advice available so that it can formulate strategies aimed at making Canadian producers more competitive in the global trade environment.

3.1.2 Business Line Description

Canadian International Trade Tribunal

The conduct of research and investigations, the receipt of evidence and the holding of public hearings so as to make adjudications, findings, determinations or recommendations in response to:

- inquiries under SIMA into whether or not the dumping or subsidizing found by the Canada Customs and Revenue Agency causes material injury to a domestic industry;
- investigations under the CITT Act of complaints, by Canadian producers of goods, of serious injury caused by imports;
- appeals from decisions made by the Minister of National Revenue or the Commissioner of the Canada Customs and Revenue Agency under the *Customs Act*, the *Excise Tax Act* and SIMA, including new appeals under the *Customs Act* as a result of the Tribunal's new jurisdiction under the *North American Free Trade Agreement Implementation Act*;
- requests from domestic producers for tariff relief on imported textile inputs for production;
- complaints from potential suppliers concerning any aspect of the procurement process under NAFTA, the AIT and the *WTO Agreement on Government Procurement*;
- references under the CITT Act by the Governor in Council on any economic, trade or commercial matters, including injury to Canadian producers of goods and services, or by the Minister of Finance on any tariff-related matter; and
- issues under other acts of Parliament or related regulations, including public interest considerations, reviews and requests for importer rulings under SIMA.

3.1.3 Net Planned Spending and Full-time Equivalents (FTE)

Table 3.1: Net Planned Spending (\$ thousands) and Full-time Equivalents (FTE)

Forecast Spending 2000-2001	Planned Spending 2001-2002	Planned Spending 2002-2003	Planned Spending 2003-2004
8,895	8,746	8,746	8,746
88	94	94	94

3.2 Key Results Commitments, Planned Results, Related Activities and Resources

Recognizing that the Tribunal's entire workload is externally generated and that its operations are of a quasi-judicial nature, the Tribunal is not in a position to identify planned results and related activities and resources, as is the case for a regular department.

However, the Tribunal has established the following key results commitments against which its performance can be assessed:

- Tribunal's decisions viewed as fair and impartial by domestic and international stakeholders;
- Upholding of the Tribunal's decisions by national and international appeal bodies;
- Implementation of the Tribunal's recommendations by the government; and
- Publication of the Tribunal's decisions in a timely way.

Section IV: Financial Information

Table 4.1: Net Cost of Program for the Estimates Year

(\$ thousand)	Total
Net planned spending (Gross Budgetary and Non-budgetary Main Estimates plus Adjustments)	8,746
<i>Plus: Services Received without Charge:</i>	
Accommodation provided by Public Works and Government Services Canada (PWGSC)	1,680
Contributions covering employer's share of employees' insurance premiums and expenditures paid by Treasury Board Secretariat	458
2001-2002 Net cost of Program	10,884

Section V: Other Information

List of Statutes and Regulations

<i>Canadian International Trade Tribunal Act</i>	R.S.C. 1985 (4th Supp.), c. 47
<i>Customs Act</i>	R.S.C. 1985 (2d Supp.), c. 1
<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 (3d Supp.), c. 12
<i>Energy Administration Act</i>	R.S.C. 1985, c. E-6
<i>Canadian International Trade Tribunal Regulations</i>	SOR/89-35
<i>Canadian International Trade Tribunal Rules</i>	SOR/91-499
<i>Canadian International Trade Tribunal Procurement Inquiry Regulations</i>	SOR/93-602
<i>Special Import Measures Regulations</i>	SOR/84-927
<i>Regulations Amending the Special Import Measures Regulations</i>	SOR/2000-138

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

Agreement on Internal Trade
Canada-Chile Free Trade Agreement
Canada-Israel Free Trade Agreement
Canada-Korea Agreement on the Procurement of Telecommunications Equipment
North American Free Trade Agreement
 World Trade Organization Agreements

References

1. Tribunal's Web site

- www.citt.gc.ca

2. Publications

Annual Reports

- 1989-90 to 1999-2000

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
- Textile Reference: Annual Status Report - October 1, 1997, to September 30, 1998
- Textile Reference: Annual Status Report – October 1, 1998, to September 30, 1999

Bulletins

Guides

- *Procurement Review Process - A Descriptive Guide*
- *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 Matters*
- *Information on Import Safeguard Inquiries and Measures*
- *Information on Procurement Review*
- *Information on Textile Tariff Investigations*

3. Contact for Further Information

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