
ANNUAL REPORT

**FOR THE FISCAL YEAR ENDING
MARCH 31, 2002**

**Canadian
International
Trade Tribunal**

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CHAIRMAN

PRÉSIDENT

June 26, 2002

The Honourable John Manley, P.C., M.P.
Deputy Prime Minister and Minister of Finance
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

I have the honour of transmitting to you, for tabling in the House of Commons, pursuant to section 41 of the *Canadian International Trade Tribunal Act*, the Annual Report of the Canadian International Trade Tribunal for the fiscal year ending March 31, 2002.

Yours sincerely,

Pierre Gosselin

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CHAPTER I

TRIBUNAL HIGHLIGHTS IN FISCAL YEAR

Dumping and Subsidizing Inquiries and Reviews

In the fiscal year, the Canadian International Trade Tribunal (the Tribunal) issued four preliminary determinations of injury under subsection 37.1(1) of the *Special Import Measures Act* (SIMA). The Tribunal also issued six findings following injury inquiries under section 42 of SIMA and three orders following reviews under section 76.03. At the end of the year, there were two inquiries and three expiry reviews in progress.

Public Interest Investigations

Pursuant to section 45 of SIMA, a public interest inquiry may be conducted by the Tribunal following a finding of injury caused by dumped or subsidized imports. The Tribunal may decide, either as a result of a request from an interested person or on its own initiative, that there are reasonable grounds to consider that the imposition of part or all of those duties may not be in the public interest. In fiscal year 2001-2002, no public interest inquiries were conducted by the Tribunal further to findings of injury in three inquiries.

Procurement Review

The Tribunal received 77 complaints during the fiscal year. The Tribunal issued 32 written determinations of its findings and recommendations. Twenty-one of these determinations related to cases that were in progress at the end of fiscal year 2000-2001.

In July 1999, the governments of the Republic of Korea (Korea) and Canada signed the *Agreement on the Procurement of Telecommunications Equipment* establishing rules and procedures with respect to government procurement of telecommunications equipment and incidental services by manufacturers and service providers of both countries. The agreement also provides for the application of non-discriminatory rules with respect to the procurement of telecommunications equipment by listed government entities. Under the terms of the agreement, the federal government is required to adopt and maintain bid protest procedures for procurement that it covers. The Tribunal has been designated as the bid challenge authority under the agreement. The *Canadian International Trade Tribunal Procurement Inquiry Regulations* were therefore amended. The agreement was ratified and is in force as of September 1, 2001.

In September 2001, the Tribunal made available on its Web site an electronic package entitled "Filing a Procurement Complaint". This package provides

<p>Trade and Tariff Reference</p>	<p>potential complainants with an overview of the Tribunal's jurisdiction and process and allows them to file their complaints on-line.</p>
<p>Textiles</p>	<p>During the fiscal year, the Tribunal issued three reports to the Minister of Finance concerning four requests for tariff relief. Two requests for tariff relief were in progress at the end of the year. In addition, the Tribunal's seventh annual status report on the investigation process was submitted to the Minister of Finance on February 25, 2002.</p>
<p>Safeguard Inquiry</p>	<p>On March 21, 2002, the Tribunal was directed by Her Excellency the Governor General in Council, on the recommendation of the Minister of Finance and the Minister for International Trade, pursuant to paragraph 20(a) of the <i>Canadian International Trade Tribunal Act</i> (CITT Act), to inquire into and report on the importation of certain steel goods.</p> <p>As directed by Her Excellency, the Tribunal will submit a notice of any determination on July 4, 2002, and its report on any determination and any recommendation on August 19, 2002.</p>
<p>Appeals</p>	<p>The Tribunal issued decisions on 59 appeals from decisions of the Department of National Revenue and the Canada Customs and Revenue Agency (CCRA) made under the <i>Customs Act</i>, the <i>Excise Tax Act</i> and SIMA.</p>
<p>Legislative Amendments Affecting the Tribunal's Jurisdiction</p>	<p>The Protocol on the Accession of the People's Republic of China to the World Trade Organization (WTO) came into effect on December 11, 2001.</p> <p>Bill C-50, which has been through second reading, amends the CITT Act, the <i>Customs Tariff</i> and the <i>Export and Import Permits Act</i> to authorize the Governor in Council to impose, under certain conditions and after an inquiry by the Tribunal, special trade measures to protect Canadian industries from injury that could be caused by imports from the People's Republic of China (China). The Tribunal could be required to conduct an inquiry where there had been either a market disruption (i.e. a rapid increase in imports of Chinese goods that are like or directly competitive with Canadian goods) or an action (by another WTO Member) causing or threatening to cause a significant diversion of trade into Canada. These special trade measures, called safeguards, will be available until December 11, 2013.</p>

**Supreme Court of
Canada's
Decision on the
Standard of
Review of the
Tribunal's
Decisions**

**Access to
Tribunal Notices,
Decisions and
Publications**

Bill C-50 also amends SIMA to allow the CCRA greater flexibility in conducting anti-dumping investigations relating to imported Chinese goods when the price or cost of production of those goods in China is not determined by market economy conditions.

On February 7, 2002, the *Regulations Amending the Special Import Measures Regulations* on massive importation of dumped or subsidized goods came into effect. On February 23, 2002, they were published in the *Canada Gazette*, Part II. They provide guidance in respect of inquiries conducted by the Tribunal under paragraphs 42(1)(b) and (c) of SIMA. The amendments will ensure greater transparency and predictability by setting out factors to be considered in determining whether injury has been caused by a massive importation of dumped or subsidized goods, or by a series of importations of such goods where the importations have occurred within a relatively short period of time and, in the aggregate, are massive.

On November 29, 2001, legislative amendments to the *Customs Act* came into force. Sections 60.2 and 67.1 of the *Customs Act* provide that a person may apply to the Tribunal for an extension of time. (Refer to Chapter IV for additional information.)

On June 7, 2001, the Supreme Court of Canada handed down a decision that dealt with the standard of review applicable to the Tribunal's decisions with respect to the value for duty of imported goods under the *Customs Act*. In *Canada (Deputy Minister of National Revenue) v. Mattel Canada*, [2001] 2 S.C.R. 100, the Supreme Court of Canada decided that the appropriate standard of review applicable to the Tribunal's decisions in such cases is correctness with respect to questions of law. (Refer to Chapter IV for additional information on this court decision.)

Tribunal notices and decisions are published in the *Canada Gazette*. Those relating to procurement complaints are also published on MERX (Canada's Electronic Tendering Service).

The Tribunal's Web site provides an exhaustive repository of all Tribunal notices, decisions and publications, as well as other information relating to the Tribunal's current activities. The Tribunal also launched a new subscriber alert service. This new service gives a subscriber the flexibility to choose those areas of the Tribunal's jurisdiction for which it wants to be notified of each new posting on the Tribunal's Web site. It also allows subscribers to register and deregister on-line. This service is available free of charge.

**Meeting Statutory
Deadlines
(Timeliness)**

All the Tribunal's inquiries were completed on time, and decisions were issued within the statutory deadlines. For appeals of customs and excise decisions that are not subject to statutory deadlines, the Tribunal usually issues, within 120 days of the hearing, a decision on the matter in dispute, including the reasons for its decision.

Tribunal's Caseload in Fiscal Year

	Cases Brought Forward from Previous Fiscal Year	Cases Received in Fiscal Year	Total	Decisions/ Reports Issued	Cases Withdrawn/ Not Initiated/ Terminated/ Suspended	Cases Outstanding (March 31, 2002)
SIMA ACTIVITIES						
Preliminary Injury Inquiries	1	3	4	4	-	-
Inquiries	3	4	7	6	-	1
Public Interest Inquiries	-	-	-	-	-	-
Requests for Interim Review	-	2	2	-	1	1
Expiries	-	2	2	2	-	-
Expiry Reviews	2	6	8	3	-	5
APPEALS						
<i>Customs Act</i>	79	56	135	46	31	58
<i>Excise Tax Act</i>	89	37	126	12	18	96
SIMA	<u>2</u>	<u>5</u>	<u>7</u>	<u>1</u>	<u>-</u>	<u>6</u>
Total	170	98	268	59	49	160
ECONOMIC, TRADE, TARIFF AND SAFEGUARD INQUIRIES						
Textile Reference	-	-	-	-	-	-
Requests for Tariff Relief	4	2	6	3 ¹	-	2
Expiries	-	-	-	-	-	-
Reviews	-	-	-	-	-	-
Requests for Reconsideration	-	-	-	-	-	-
Economic, Trade and Tariff-related Matters	-	-	-	-	-	-
Safeguard Inquiries	-	1	1	-	-	1
PROCUREMENT REVIEW ACTIVITIES						
Complaints	22	77	99	32	50	17

1. During the fiscal year, the Tribunal issued three reports to the Minister of Finance concerning four requests for tariff relief.

CHAPTER II

MANDATE, ORGANIZATION AND ACTIVITIES OF THE TRIBUNAL

Introduction

The Tribunal is an administrative tribunal operating within Canada's trade remedies system. It 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 main legislation governing the work of the Tribunal is the CITT Act, SIMA, the *Customs Act*, the *Excise Tax Act*, the *Canadian International Trade Tribunal Regulations* (CITT Regulations), the *Canadian International Trade Tribunal Procurement Inquiry Regulations* and the *Canadian International Trade Tribunal Rules* (Rules of Procedure).

Mandate

The Tribunal's primary mandate is to:

- conduct inquiries into whether dumped or subsidized imports have caused, 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 federal government procurement that is covered by the *North American Free Trade Agreement* (NAFTA), the *Agreement on Internal Trade* (AIT), the *WTO Agreement on Government Procurement* (AGP) and the *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 production operations;
- 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.

Method of Operation

In carrying out most of its responsibilities, the Tribunal conducts inquiries with hearings that are open to the public. These are normally held at the Tribunal's offices in Ottawa, Ontario, although hearings may also be held elsewhere in Canada, in person or through videoconferencing. 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, generally conducted 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. The CITT Act contains provisions for the protection of confidential information. Only independent counsel who have filed declarations and confidentiality undertakings may have 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 U.S. and/or Mexican interests in SIMA. Governments that are members of the WTO may challenge some of the Tribunal's decisions before a dispute settlement panel under the *WTO Understanding on Rules and Procedures Governing the Settlement of Disputes*.

Membership

The Tribunal may be composed of nine full-time members, including a Chairperson and two Vice-Chairpersons, who are appointed by the Governor in Council for a term of up to five years that is renewable once. A maximum of five additional members may be temporarily appointed. The Chairperson 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.

Organization

Members of the Tribunal, currently 7, are supported by a permanent staff of 86 people. Its principal officers are the Secretary, responsible for corporate management, public relations, dealings with other government departments and other governments, and the court registry functions of the Tribunal; the Executive Director, Research, responsible for the investigative portion of inquiries, for the economic and financial analysis of firms and industries and for other fact finding required for Tribunal inquiries; and the General Counsel, responsible for the provision of legal services.

Consultations

Through the Tribunal/Canadian Bar Association Bench and Bar Committee, the Tribunal provides a forum to promote discussion with the bar on issues of importance. The committee also includes representatives from the trade

consulting community. The Tribunal consults with bar associations, representatives of industries and others that appear or are likely to appear before the Tribunal to exchange views on new procedures being considered by the Tribunal prior to their distribution as guidelines or practice notices. The Tribunal also briefs federal government departments and trade associations on its procedures.

Organization

CHAIRPERSON

Pierre Gosselin

VICE-CHAIRPERSONS

Patricia M. Close
Richard Lafontaine

MEMBERS

Peter F. Thalheimer
Zdenek Kvarda
James A. Ogilvy
Ellen Fry

SECRETARIAT

Secretary
Michel P. Granger

RESEARCH BRANCH

Executive Director of Research
Ronald W. Erdmann

LEGAL SERVICES BRANCH

General Counsel
Reagan Walker

Legislative Mandate of the Tribunal

Section	Authority
CITT Act	
18	Inquiries on Economic, Trade or Commercial Interests of Canada by Reference from the Governor in Council
19	Inquiries Into Tariff-related Matters by Reference from the Minister of Finance
19.01	Safeguard Inquiries Concerning Goods Imported from the United States and Mexico
19.02	Mid-term Reviews of Safeguard Measures and Report
20	Safeguard Inquiries Concerning Goods Imported Into Canada and Inquiries Into the Provision, by Persons Normally Resident Outside Canada, of Services in Canada
23	Safeguard Complaints by Domestic Producers
23(1.01) and (1.02)	Safeguard Complaints by Domestic Producers Concerning Goods Imported from the United States and Mexico
30.08 and 30.09	Safeguard Measures
30.11	Complaints by Potential Suppliers in Respect of Designated Contracts
SIMA	
33 and 37	Advice to the Commissioner
34(2) and 35(3)	Preliminary Inquiry
37.1	Preliminary Determination of Injury
42	Inquiries With Respect to Injury Caused by the Dumping and Subsidizing of Goods
43	Findings of the Tribunal Concerning Injury
44	Recommencement of Inquiry (on Remand from the Federal Court of Canada or a Binational Panel)
45	Public Interest
46	Advice to the Commissioner
61	Appeals of Redeterminations of the Commissioner Made Pursuant to Section 59 Concerning Whether Imported Goods Are Goods of the Same Description as Goods to Which a Tribunal Finding Applies, Normal Values and Export Prices or Subsidies
76	Reviews of Findings of Injury Initiated by the Tribunal or at the Request of the Commissioner or Other Interested Persons

Legislative Mandate of the Tribunal (cont'd)

Section	Authority
76.01	Interim Reviews of Orders by the Tribunal
76.02	Reviews of Orders by the Tribunal on Referral Back and Re-hearing
76.03	Expiry Reviews
76.1	Reviews of Findings of Injury Initiated at the Request of the Minister of Finance
89	Rulings on Who Is the Importer
Customs Act	
67	Appeals of Decisions of the Commissioner Concerning Value for Duty and Origin and Classification of Imported Goods
67.1	Requests for Time Extension to File Notices of Appeal
68	Appeals to the Federal Court of Canada
70	References of the Commissioner Relating to the Tariff Classification or Value for Duty of Goods
Excise Tax Act	
81.19, 81.21, 81.22, 81.23, 81.25 and 81.33	Appeals of Assessments and Determinations of the Minister of National Revenue
81.32	Requests for Extension of Time for Objection or Appeal
Softwood Lumber Products Export Charge Act	
18	Appeals of Assessments and Determinations of the Minister of National Revenue
Energy Administration Act	
13	Declarations Concerning the Amount of Oil Export Charge

CHAPTER III

DUMPING AND SUBSIDIZING INJURY INQUIRIES AND REVIEWS

The Process

Under SIMA, the CCRA may impose anti-dumping and countervailing duties if domestic producers are injured by imports of goods into Canada:

- at prices lower than sales in the home market or lower than the cost of production (dumping), or
- that have benefited from certain types of government grants or other assistance (subsidizing).

The determination of dumping and subsidizing is the responsibility of the CCRA. The Tribunal determines whether such dumping or subsidizing has caused “material injury” or “retardation” or is threatening to cause material injury to a domestic industry.

Preliminary Injury Inquiries

A Canadian producer or an association of Canadian producers begins the process of seeking relief from alleged injurious dumping or subsidizing by making a complaint to the Commissioner of the CCRA. If the Commissioner initiates a dumping or subsidizing investigation, the Tribunal initiates a preliminary injury inquiry under subsection 34(2) of SIMA. The Tribunal seeks to make all interested parties aware of the inquiry. It issues a notice of commencement of preliminary injury inquiry that is published in the *Canada Gazette* and forwarded to all known interested persons.

In the inquiry, the Tribunal determines whether the evidence discloses a “reasonable indication” that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury. The primary evidence is the information received from the Commissioner and submissions from parties. The Tribunal seeks the views of parties on what are the like goods and which domestic producers comprise the domestic industry. In most cases, the Tribunal does not issue questionnaires or hold a public hearing. The Tribunal makes a preliminary determination after an inquiry of up to 60 days.

If the Tribunal finds that there is a reasonable indication that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, it makes a determination to that effect, and the Commissioner continues the dumping or subsidizing investigation. If there is no reasonable indication that the

**Preliminary Injury
Inquiries
Completed in the
Fiscal Year**

dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, the Tribunal terminates the inquiry, and the Commissioner terminates the dumping or subsidizing investigation. The Tribunal issues reasons 15 days after its determination.

The Tribunal completed four preliminary injury inquiries in the fiscal year.

Table 1 summarizes the Tribunal's preliminary injury inquiry activities during the fiscal year.

**Advice Given
Under Section 37
of SIMA**

When the Commissioner decides not to cause an investigation to be initiated by reason that the evidence does not disclose a reasonable indication that the dumping or subsidizing of the goods has caused injury or retardation or threat of injury, the Commissioner or the complainant may, under section 33 of SIMA, refer the matter to the Tribunal for an opinion as to whether or not the evidence before the Commissioner discloses a reasonable indication that the dumping or subsidizing has caused material injury or retardation or is threatening to cause material injury to a domestic industry.

Section 37 of SIMA requires the Tribunal to render its advice within 30 days. The Tribunal makes its decision, without holding a public hearing, on the basis of the information before the Commissioner when the decision regarding initiation was reached.

There were no references under section 33 of SIMA during the fiscal year.

**Final Injury
Inquiries**

If the Commissioner makes a preliminary determination of dumping or subsidizing, the Tribunal commences a final injury inquiry under section 42 of SIMA. The CCRA may levy provisional duties on imports from the date of the preliminary determination. The Commissioner continues his investigation to a final determination of dumping or subsidizing.

As in a preliminary injury inquiry, the Tribunal seeks to make all interested parties aware of its inquiry. It issues a notice of commencement of inquiry that is published in the *Canada Gazette* and forwarded to all known interested parties.

In conducting final injury inquiries, the Tribunal requests information from interested parties, receives representations and holds public hearings. The Tribunal's staff carries out extensive research for each inquiry. The Tribunal sends questionnaires to domestic producers, importers and purchasers and to foreign producers. Based primarily on questionnaire responses, the Tribunal's

staff prepares a report that focuses on the factors that the Tribunal considers in arriving at decisions regarding material injury or retardation or threat of material injury to a domestic industry. The reports become part of the case record and are made available to counsel and parties.

Parties participating in the proceedings may conduct their own cases or be represented by counsel. Confidential or business-sensitive information is protected in accordance with provisions of the CITT Act.

The *Special Import Measures Regulations* prescribe factors that the Tribunal may consider in its determination of whether the dumping or subsidizing of goods has caused material injury or retardation or is threatening to cause material injury to a domestic industry. These factors include, among others, the volume of dumped or subsidized goods, the effects of the dumped or subsidized goods on prices and the impact of the dumped or subsidized goods on production, sales, market shares, profits, employment and utilization of production capacity.

The Tribunal holds a public hearing about 90 days after the commencement of the inquiry, usually starting just before the Commissioner makes a final determination of dumping or subsidizing. At the public hearing, domestic producers attempt to persuade the Tribunal that the dumping or subsidizing of goods has caused material injury or retardation or is threatening to cause material injury to a domestic industry. Importers and exporters challenge the domestic producers' case. After cross-examination by parties and questioning by the Tribunal, each side has an opportunity to respond to the other's case and to summarize its own. In many inquiries, the Tribunal calls witnesses who are knowledgeable about the industry and market in question. Parties may also seek exclusions from a Tribunal finding of material injury or retardation or threat of material injury to a domestic industry.

The Tribunal must issue its finding within 120 days from the date of the preliminary determination by the Commissioner. The Tribunal has an additional 15 days to issue a statement of reasons explaining its finding. A Tribunal finding of material injury or retardation or threat of material injury to a domestic industry is the legal authority for the imposition of anti-dumping or countervailing duties by the CCRA.

The Tribunal completed six final injury inquiries in the fiscal year. They concerned *Garlic, Fresh or Frozen* (NQ-2000-006), *Certain Concrete Reinforcing Bar* (NQ-2000-007), *Certain Corrosion-resistant Steel Sheet* (NQ-2000-008), *Certain Flat Hot-rolled Steel Sheet and Strip* (NQ-2001-001), *Certain Cold-rolled Steel Sheet* (NQ-2001-002), and *Leather Footwear with Metal Toe Caps* (NQ-2001-003). In 2000, the estimated values of the Canadian

**Final Injury
Inquiries
Completed in the
Fiscal Year**

Garlic, Fresh or Frozen

NQ-2000-006

*Finding:
Injury
(May 2, 2001)*

markets for these goods were \$20 million for garlic, \$350 million for reinforcing bar, \$930 million for corrosion-resistant sheet, \$3.3 billion for hot-rolled steel sheet, \$830 million for cold-rolled steel sheet and \$175 million for footwear.

This inquiry involved the dumping in Canada of fresh and frozen garlic from China and Vietnam, excluding fresh garlic subject to the Tribunal's finding in NQ-96-002 (i.e. garlic imported from China from July 1 to December 31 inclusive, of each calendar year). The domestic industry consisted of 96 Ontario growers represented by the Garlic Growers Association of Ontario. They accounted for over two thirds of Canada's total production of garlic. The Tribunal found that fresh and frozen garlic constituted a single class of goods.

The Tribunal found that the substantial volumes and very low prices of dumped garlic from China and Vietnam had caused material injury to the domestic growers in the form of price erosion, reduced profitability and reduced plantings. The dumped subject goods forced the market prices down to below the domestic growers' costs of production. In the Tribunal's view, this resulted in a financial loss of about \$1 million, most of which was related to the price erosion.

The Tribunal also considered other factors that could have had an impact on the industry, including the weather, other low-priced imports, the competitiveness of the domestic growers and the domestic overproduction in 2000. It found that none of these factors contributed in any significant way to the injury experienced by the domestic industry.

Certain Concrete Reinforcing Bar

NQ-2000-007

*Finding:
Injury
(June 1, 2001)*

This inquiry concerned dumped imports of concrete reinforcing bar (rebar) from Indonesia, Japan, Latvia, Republic of Moldova, Poland, Chinese Taipei and Ukraine. Eight firms accounted for Canada's production of rebar. They are Stelco Inc. (Stelco), its two wholly owned subsidiaries AltaSteel Ltd. and Stelco McMaster Ltée, Co-Steel Inc., Gerdau Courtice Steel Inc., Gerdau MRM Steel Inc., Ispat Sidbec Inc. (Ispat) and Slater Steel Inc.

This was the Tribunal's second inquiry into dumped imports of rebar. In Inquiry No. NQ-99-002, the Tribunal found that dumped imports from Cuba, Korea and Turkey had caused injury to the domestic industry and that importers had switched sources of supply to the countries named in this inquiry.

In this inquiry, the Tribunal found that, as the volume of subject imports grew, price levels collapsed around the third quarter of 2000. Witnesses testified that imports from the subject countries were the undisputed price leaders in the domestic market. Since rebar is the largest cost component in contract bids and small differences in its cost can often determine the outcome of contract bids,

Certain Corrosion-resistant Steel Sheet

NQ-2000-008

*Finding:
No Injury/No Threat of
Injury
(July 3, 2001)*

fabricators were forced to purchase dumped imports in order to remain competitive. During the inquiry period, the domestic industry's gross margins and net income deteriorated sharply.

The Tribunal concluded that the substantial volumes and low prices of dumped rebar from the named countries caused injury to the domestic industry in the form of lost sales, declining market share and price erosion. Furthermore, these lost sales and price erosion accounted for a significant proportion of the decline in financial performance experienced by the domestic industry in 2000.

The Tribunal examined factors other than dumping that may have caused the injury suffered by the domestic producers. They included stoppages in production, trends in the price of steel scrap, and the volume and prices of imports from non-subject countries. The Tribunal determined that none of these satisfactorily explained the injury suffered by the domestic industry.

This inquiry concerned dumped imports of corrosion-resistant steel sheet from China, India, Malaysia, Russia, South Africa and Chinese Taipei, and subsidized imports from India. The domestic industry consisted of Dofasco Inc. (Dofasco), Sorevco, Stelco and Continuous Colour Coat Limited.

The Tribunal was not convinced that the surge of dumped and subsidized imports from the subject countries in the last half of 1999 and the first half of 2000 caused injury to the domestic industry. It found that the increase in import sales in 1999 and 2000 was to meet the surging demand of both the automotive and construction markets, as the domestic industry was essentially at full capacity and inventories were at normal levels. A dramatic decline in prices for corrosion-resistant steel, as the domestic market for automotive product weakened in 2000, resulted in sharp decreases in the industry's gross margins and net incomes. In the Tribunal's view, factors other than the dumped and subsidized goods caused the injury experienced by the domestic industry. While average industry prices declined significantly in the latter part of 2000, selling prices of the subject imports actually increased over the same period and the volumes of imports declined.

The Tribunal attributed the injury to aggressive intra-industry competition in 2000. Dofasco had increased its production capacity with the new line from DoSol Galva Limited Partnership and reduced prices as it sold the additional goods into a softening market. In addition, Stelco sold a significant percentage of its production as seconds and excess primes at substantially reduced prices. The capital-intensive nature of galvanized production and the need to maintain high capacity rates had the domestic industry selling these goods into a declining market and put additional downward pressure on prices.

**Certain Flat Hot-rolled
Steel Sheet and Strip**

NQ-2001-001

*Finding:
No Injury/Injury
(August 17, 2001)*

There was insufficient evidence to suggest that imports of dumped or subsidized goods from the subject countries threatened to cause injury. Imported goods were declining and their prices continued to be higher than domestically produced goods. According to testimony, the foreign producers had a diversified export strategy to seek out other more lucrative markets as demand declined in North America. The Tribunal concluded that imports appeared to serve as a secondary source of supply to the domestic market, particularly in periods of tight domestic supply. In addition, the Tribunal noted that dumping margins for some countries and suppliers were very low. Given these numbers and the trend away from the Canadian market, it was difficult to conclude that dumped and subsidized imports were likely to cause injury to the domestic industry in the foreseeable future.

This inquiry concerned the dumping of certain hot-rolled steel sheet and strip from Brazil, Bulgaria, China, Chinese Taipei, India, Korea, former Yugoslav Republic of Macedonia (Macedonia), New Zealand, Saudi Arabia, South Africa, Ukraine and Yugoslavia, and the subsidizing of hot-rolled steel sheet from India. The domestic industry consisted of Stelco, Dofasco, Algoma Steel Inc. (Algoma), Ispat and IPSCO Inc. (IPSCO). In Inquiry No. NQ-98-004 in 1999, the Tribunal had found that dumped imports from France, Romania, the Slovak Republic and Russia had caused injury to the domestic industry.

The Tribunal's analysis focused on the impact of the dumping and subsidizing primarily on domestic sales of hot-rolled sheet to the merchant market. However, the Tribunal assessed the materiality of the injury caused by the dumping and subsidizing against the domestic industry's production of like goods as a whole, including goods produced for further transformation and export.

The Tribunal assessed the cumulative effect of the dumped and subsidized goods from all the subject countries, except those from Korea, New Zealand and Saudi Arabia. For those countries, the conditions of competition did not warrant a cumulative analysis, and the Tribunal conducted separate analyses of the effects of the dumped imports from each country.

In the second half of 2000, the domestic producers suffered a significant deterioration in performance in the domestic merchant market in the form of reduced market share, price erosion, and reduced gross margins and net profits. As the imports covered by the 1999 finding declined to negligible levels in 2000, almost all gains in market share made by the cumulated countries and the United States were at the expense of the domestic industry and the named countries in the 1999 finding. The domestic producers saw their market share decrease from 76 percent in 1999 to 65 percent in 2000.

The Tribunal found that the dumping of hot-rolled steel sheet products from Korea, New Zealand and Saudi Arabia had not caused material injury to the domestic industry. It also concluded that there were no clearly foreseen and imminent circumstances under which the dumping in Canada of hot-rolled steel sheet products from Korea, New Zealand and Saudi Arabia would threaten to cause material injury.

The Tribunal found that, while the cumulated imports had little impact on the end-user sector, which represented 36 percent of total domestic sales in 2000, they were responsible for a significant part of the price erosion in the pipe and tube sector (25 percent of domestic sales in 2000) and most of the price erosion in the service centre sector. It was clear that the subject goods from the cumulated countries led the prices down in both of these key sectors.

The Tribunal concluded that, absent the dumping and subsidizing, the domestic producers' market share, volume of sales, prices and utilization of plant capacity would have been higher. Further, the lost volume and the price erosion accounted for a significant part of the financial losses incurred by the domestic producers in the second half of 2000. The Tribunal also concluded that the injury suffered by the domestic industry was material, when assessed against the total revenues generated by hot-rolled steel sheet production, including production for the domestic and export merchant markets and further internal processing.

The Tribunal also examined other factors to ensure that injury caused by such factors was not attributed to the dumped and subsidized imports. They included imports from non-subject countries, the financial difficulties of Algoma and Maksteel Inc., the domestic producers' capacity to supply the market, the contraction of demand in the second half of 2000 and the competition between domestic producers. However, the Tribunal found that many factors did not contribute in a significant way to domestic industry's injury. It did not ascribe to the dumping and subsidizing the injury caused by other factors.

***Certain Cold-rolled
Steel Sheet***

NQ-2001-002

*Finding:
No Injury
(October 9, 2001)*

This inquiry concerned dumped imports of cold-rolled steel sheet from Brazil, China, Chinese Taipei, Macedonia, Italy, Luxembourg, Malaysia, Korea and South Africa. Cold-rolled sheet for the production of galvanized sheet and for automotive end use, and for the production of tin-plate or pre-painted steel were excluded from the inquiry. The domestic industry consisted of Dofasco, Ispat and Stelco.

The Tribunal found that the volume of dumped goods from each of Macedonia, Italy, Luxembourg and Malaysia was negligible, and terminated its inquiry with respect to those imports. It assessed the cumulative effect of the dumping from the other five subject countries.

The Tribunal focused its analysis on the steel service centre sector, which accounted for about 98 percent of sales of the subject goods. It found that, prior to mid-2000, when market conditions were robust due to the strong economy, steel service centres built up their inventories to meet the expected higher levels of demand. They turned to imports from the subject countries because of concerns about the domestic mills' ability to meet their requirements. The Tribunal also found that, during this period, domestic prices and subject country prices increased, with subject country prices eventually matching domestic prices. In the Tribunal's opinion, the industry was not affected by the import competition. In fact, the industry experienced increasing gross margins and net income during this period. Accordingly, the Tribunal found that the industry had not suffered injury from dumped imports prior to mid-2000.

In the second half of 2000, the industry's prices softened. The softening accelerated in the first half of 2001. As domestic prices declined, the industry's unit gross margins were cut almost in half from the second to the third quarter of 2000 and fell below unit costs. By the first quarter of 2001, the industry began to sustain significant losses at the gross margin level and in average unit net income. The Tribunal found that the industry suffered significant injury after mid-2000.

However, the Tribunal was not convinced that dumped imports caused the industry's injury. It observed that, by mid-2000, in light of the emerging economic downturn, steel service centres had collectively cut back on their purchases of both imported and domestically produced cold-rolled sheet in order to reduce their inventories. These reached targeted levels by the fourth quarter of 2000. As sales plummeted in the third quarter of 2000, the industry began reducing its prices, and its sales to steel service centres increased substantially in the fourth quarter of 2000. The Tribunal found that this increase offset a decline in plant loading for other cold-rolled steel sheet, in particular that used by the automotive sector. As domestic prices declined, average import prices from the subject countries rose in the third and fourth quarters of 2000 before declining in the first quarter of 2001. The Tribunal found that, although subject country prices declined below domestic prices, the price spread was not sufficient to provide an incentive to buy imports to any great extent.

The Tribunal found that other non-dumping factors had also adversely affected the industry's performance in the period after mid-2000. They included Stelco's unanticipated problems with the upgrade of its four-stand cold-roll mill, resulting in higher costs and high volumes of seconds that depressed prime prices.

The Tribunal noted that, while the economic downturn made the industry vulnerable to dumping, it also made the Canadian market unattractive to imports from the subject countries. Such imports, as a whole, withdrew from the Canadian

**Leather Footwear with
Metal Toe Caps**

NQ-2001-003

*Finding:
Threat of Injury
(December 27, 2001)*

market as conditions deteriorated. The Tribunal had no reason to believe that they would return under the even worse conditions that eventually prevailed. Accordingly, it found that there was no threat of injury from dumping by the subject countries.

This inquiry concerned dumped imports of leather footwear with metal toe caps from China. The domestic industry consisted of G.A. Boulet Inc., Canada West Shoe Manufacturing Inc., L.P. Royer Inc., STC Footwear, Tatra Shoe Manufacturing Inc. and Terra Footwear, members of The Shoe Manufacturers' Association of Canada, and Dayton Shoe Co. Ltd., Hichaud Inc., Mellow Walk Footwear Inc., Vercorp Inc. and Viberg Boot Manufacturing Ltd. The Tribunal was of the view that leather safety boots and leather safety shoes resembled one another, had essentially the same functional end use and were a single class of goods.

The Tribunal found that trends in the producers' main economic indicators were generally positive for the period of inquiry. Production rose, and sales and prices increased at a faster rate than the apparent market. Financial performance also improved, with producers' combined gross margin increasing from 21 percent of net sales in 1998 to 24 percent in 2000. Their combined operating income also increased as a percentage of net sales. The Tribunal was not convinced that the producers would have increased sales volume in the absence of dumping. Accordingly, it concluded that the dumping of leather safety footwear had not caused injury.

However, the Tribunal noted that the subject imports grew dramatically from near zero in the early 1990s to capture 63 percent of the market in the first six months of 2001. They continued to grow in the months of August and September. The Tribunal observed that China accounted for 51 percent of global footwear production in 1999. Much of the growth in production had come from an increase in footwear exports.

The Tribunal found that Chinese exports of safety footwear increasingly included high-end products and branded footwear that were formerly produced in Canada. It also noted that the average wholesale unit prices of imports were less than those of the producers. The Tribunal concluded that price gaps of this magnitude, combined with the continuing improvement in the quality of the subject goods, would lead consumers to increasingly question whether the price spreads were justified. It concluded that the dumped imports of safety footwear from China threatened to injure Canadian producers.

The Tribunal excluded from its finding athletic-style and hiking-style leather safety shoes of cement construction, and certain leather boots with metal toe caps and rubber outsoles, for use in motorcycle riding.

**Final Injury
Inquiries in
Progress at the
End of the Fiscal
Year**

There was one inquiry in progress at the end of the fiscal year.

Fresh Tomatoes (NQ-2001-004) concerns dumped imports from the United States. The Canadian Tomato Trade Alliance is participating in the inquiry for Canadian greenhouse growers of fresh tomatoes.

Table 2 summarizes the Tribunal's final injury inquiry activities during the fiscal year.

**Public Interest
Inquiry Under
Section 45 of
SIMA**

The Tribunal may initiate a public interest inquiry following a finding of injury caused by dumped or subsidized imports. The Tribunal may decide, either as a result of a request from an interested person or on its own initiative, that there are reasonable grounds to consider that the imposition of part or all of the duties may not be in the public interest. The Tribunal then conducts a public interest inquiry pursuant to section 45 of SIMA. The result of this inquiry may be a report to the Minister of Finance recommending that the duties be reduced and by how much. The Tribunal received no requests for public interest inquiries during the fiscal year.

Importer Ruling

Under section 90 of SIMA, the Commissioner may request the Tribunal to rule on the question as to which of two or more persons is the importer of goods on which anti-dumping or countervailing duties are payable. If the Tribunal identifies as the importer a person other than the one specified by the Commissioner, the Tribunal may reconsider its original finding of material injury under section 91.

There were no requests for importer rulings in the fiscal year.

**Requests for
Interim Reviews**

The Tribunal may review its findings of injury or orders at any time, on its own initiative or at the request of the Minister of Finance, the Commissioner or any other person or government (section 76.01 of SIMA). The Tribunal commences an interim review where one is warranted and determines if the finding or order (or any aspect of it) should be rescinded or continued to its expiry date, with or without amendment.

An interim review may be warranted where there is a reasonable indication that new facts have arisen or that there has been a change in the circumstances that led to the finding or order. For example, since the finding or order, the domestic industry may have ceased production of like goods or foreign subsidies may have been terminated. An interim review may also be warranted where there are facts that, although in existence, were not put into evidence during the

previous review or inquiry and were not discoverable by the exercise of reasonable diligence at that time.

There were two requests for interim reviews in the fiscal year.

On November 20, 2001, the China Chamber of Commerce for Import & Export of Foodstuffs, Native Produce and Animal By-products (China Chamber of Commerce) and Cangshan County Beidouxing Co., Ltd. (CCBC) filed a properly documented request for an interim review of the Tribunal's finding in *Garlic, Fresh or Frozen* (NQ-2000-006).

The Tribunal considered the likely impact of the new facts and changes in circumstances referred to by the China Chamber of Commerce and CCBC and determined that they did not warrant an interim review.

On February 13, 2002, the BC Vegetable Marketing Commission requested that the Tribunal rescind immediately its order due to expire on November 28, 2002, in *Fresh Iceberg Lettuce* (RR-97-002). On March 15, 2002, the Tribunal gave notice (RD-2001-002) that, pursuant to subsection 76.01(1) of SIMA, it had decided to conduct an interim review of its order made on November 28, 1997, in Review No. RR-97-002, continuing, without amendment, its finding made on November 30, 1992, in Inquiry No. NQ-92-001, concerning fresh Iceberg (head) lettuce, originating in or exported from the United States of America, for use or consumption in the province of British Columbia.

Expiry Reviews

Subsection 76.03(1) of SIMA provides that a finding or order expires after five years, unless an expiry review has been initiated. Not later than 10 months before the expiry date of the order or finding, the Secretary publishes a notice of expiry in the *Canada Gazette*. The notice invites persons and governments to submit their views on whether the order or finding should be reviewed and gives direction on the issues that should be addressed in the submissions. The Tribunal initiates a review of the order or finding, as requested, if it determines that such a review is warranted. It then issues a notice of review and notifies the Commissioner of its decision. The notice of expiry review is published in the *Canada Gazette* and forwarded to all known interested parties.

During the fiscal year, the Tribunal issued eight notices of expiry. The Tribunal decided that expiry reviews were warranted in six cases and initiated reviews. In *Fresh Iceberg Lettuce* (LE-2001-007), there was no request for an expiry review and no review was initiated. In *Bicycles and Frames* (LE-2001-008), no decision had been taken before the end of the fiscal year.

**Expiry Reviews
Completed in the
Fiscal Year**

The purpose of an expiry review is to determine whether anti-dumping or countervailing duties remain necessary. There are two phases in an expiry review. The first phase is the investigation by the Commissioner to determine whether there is a likelihood of resumed or continued dumping or subsidizing if the finding or order expires. If the Commissioner determines that such likelihood exists with respect to any of the goods, the second phase is the Tribunal's inquiry into the likelihood of injury or retardation. If the Commissioner determines that such a likelihood does not exist for any of the goods, the Tribunal does not consider those goods in its subsequent determination of the likelihood of injury and issues an order rescinding the order or finding with respect to those goods.

The Tribunal's procedures in expiry reviews are similar to those in final injury inquiries.

Upon completion of an expiry review, the Tribunal issues an order with reasons, rescinding or continuing a finding or order, with or without amendment. If a finding or order is continued, it remains in force for a further five years, unless a review has been initiated and the finding or order is rescinded. If the finding or order is rescinded, imports are no longer subject to anti-dumping or countervailing duties.

In the fiscal year, the Tribunal completed three expiry reviews.

On July 4, 2001, the Tribunal rescinded its order in *Certain Oil and Gas Well Casing* (RR-2000-001) respecting dumped imports from Korea and the United States. The following Canadian producers, IPSCO, Prudential Steel Limited, Algoma, Algoma Seamless Tubulars Inc. and Stelpipe Ltd. (Stelpipe), and several importers and foreign producers participated in the expiry review.

On July 24, 2001 the Tribunal continued its order in *Certain Carbon Steel Welded Pipe* (RR-2000-002) respecting dumped imports from Argentina, India, Romania, Chinese Taipei, Thailand and Brazil, and rescinded the order respecting imports from Venezuela. Three domestic producers, Stelpipe, Ispat and IPSCO, and one foreign producer participated in the expiry review.

On March 20, 2002, the Tribunal continued its finding in *Fresh Garlic* (RR-2001-001) respecting dumped imports from China. The Garlic Growers Association of Ontario, China Chamber of Commerce and a Chinese grower/exporter participated in the expiry review.

Expiry Reviews in Progress at the End of the Fiscal Year

Five expiry reviews were in progress at the end of the fiscal year. They were reviews of the orders in: (1) *Polyiso Insulation Board* (RR-2001-002) respecting dumped imports from the United States; (2) *Machine Tufted Carpeting* (RR-2001-003) respecting dumped imports from the United States; (3) *Concrete Panels* (RR-2001-004) respecting dumped imports from the United States; (4) *Certain Waterproof Rubber Footwear* (RR-2001-005) respecting dumped imports from China; and (5) *Certain Hot-rolled Carbon Steel Plate* (RR-2001-006) respecting dumped imports from Mexico, China, South Africa and Russia.

On November 27 and December 7, 2001, respectively, the Commissioner determined that that the expiry of the findings made by the Tribunal in both *Polyiso Insulation Board* and in *Machine Tufted Carpeting* is unlikely to result in the continuation or resumption of dumping of the subject goods. The Tribunal will issue orders rescinding these findings on their date of expiry.

Table 3 summarizes the Tribunal's expiry review activities during the fiscal year. Table 4 lists Tribunal findings and orders in force as of March 31, 2002.

Judicial or Panel Review of SIMA Decisions

Any person affected by Tribunal findings or orders can request judicial review by the Federal Court of Canada on grounds of alleged denial of natural justice and error of fact or law. In cases involving goods from the United States and Mexico, requests may be made for judicial review by the Federal Court of Canada or for a review by a NAFTA binational panel. Table 5 lists the Tribunal's decisions under section 43, 44 or 76 of SIMA that were before the Federal Court of Canada for judicial review or for review by a binational panel in the fiscal year.

During the fiscal year, the Federal Court of Canada had not yet heard applications to review the Tribunal's findings in *Certain Corrosion-resistant Steel Sheet* (NQ-2000-008), *Oil and Gas Well Casing* (RR-2000-001), *Certain Flat Hot-rolled Steel Sheet* (NQ-2001-001), *Certain Cold-rolled Steel Sheet* (NQ-2001-002) and *Concrete Panels* (LE-2001-004).

During the fiscal year, a binational panel affirmed the Tribunal's findings in *Certain Refrigerators, Dishwashers and Dryers* (NQ-2000-001). At the end of the fiscal year, a binational panel had not yet heard an application to review the Tribunal's finding in *Iodinated Contrast Media* (NQ-99-003).

WTO Dispute Resolution

Governments that are members of the WTO may challenge Tribunal injury findings or orders in dumping and countervailing cases before the WTO dispute settlement bodies. This is initiated by intergovernmental consultations. There are no Tribunal findings or orders before the dispute settlement bodies of the WTO.

TABLE 1

Preliminary Determinations of Injury Issued Under Subsection 37.1(1) of SIMA Between April 1, 2001, and March 31, 2002

Preliminary Injury Inquiry No.	Product	Country	Date of Determination	Determination
PI-2000-007	Certain Cold-rolled Steel Sheet Products	Brazil, Chinese Taipei, Macedonia, Italy, Luxembourg, Malaysia, China, Korea and South Africa	May 11, 2001	Injury
PI-2001-001	Leather Footwear with Metal Toe Caps	China	August 14, 2001	Injury
PI-2001-002	Fresh Tomatoes	United States	January 8, 2002	Injury
PI-2001-003	Automotive Laminated Windshields	China	February 15, 2002	Injury

TABLE 2**Findings Issued Under Section 43 of SIMA Between April 1, 2001, and March 31, 2002, and Inquiries Under Section 42 of SIMA in Progress at Year End**

Inquiry No.	Product	Country	Date of Finding/Decision	Finding/Decision
NQ-2000-006	Garlic, Fresh or Frozen	China and Vietnam	May 2, 2001	Injury
NQ-2000-007	Certain Concrete Reinforcing Bar	Indonesia, Japan, Latvia, Republic of Moldova, Poland, Chinese Taipei and Ukraine	June 1, 2001	Injury
NQ-2000-008	Certain Corrosion-resistant Steel Sheet	China, India, Malaysia, Russian Federation, South Africa and Chinese Taipei	July 3, 2001	No injury/No threat of injury
NQ-2001-001	Certain Flat Hot-rolled Steel Sheet and Strip	Brazil, Bulgaria, China, Chinese Taipei, India, Korea, Macedonia, New Zealand, Saudi Arabia, South Africa, Ukraine and Yugoslavia	August 17, 2001	(1) No injury/No threat of injury -- Korea, New Zealand and Saudi Arabia (2) Injury -- Brazil, Bulgaria, China, Chinese Taipei, India, Macedonia, South Africa, Ukraine and Yugoslavia
NQ-2001-002	Certain Cold-rolled Steel Sheet	Brazil, Chinese Taipei, Macedonia, Italy, Luxembourg, Malaysia, China, Korea and South Africa	October 9, 2001	(1) Inquiry terminated -- Macedonia, Italy, Luxembourg and Malaysia (2) No injury/No threat of injury -- Brazil, Chinese Taipei, China, Korea and South Africa
NQ-2001-003	Leather Footwear with Metal Toe Caps	China	December 27, 2001	No injury/Threat of injury
NQ-2001-004	Fresh Tomatoes	United States	In progress	

TABLE 3**Orders Issued Under Section 76.03 of SIMA Between April 1, 2001, and March 31, 2002, and Reviews in Progress at Year End**

Review No.	Product	Country	Date of Order	Order
RR-2000-001	Certain Oil and Gas Well Casing	Korea and United States	July 4, 2001	Orders rescinded
RR-2000-002	Certain Carbon Steel Welded Pipe	Argentina, India, Romania, Chinese Taipei, Thailand, Venezuela and Brazil	July 24, 2001	Order continued Order rescinded/Venezuela
RR-2001-001	Fresh Garlic	China	March 20, 2002	Order continued
LE-2001-008	Bicycles and Frames	Chinese Taipei and China	In progress	
RR-2001-002	Polyiso Insulation Board	United States	In progress	
RR-2001-003	Machine Tufted Carpeting	United States	In progress	
RR-2001-004	Concrete Panels	United States	In progress	
RR-2001-005	Certain Waterproof Rubber Footwear	China	In progress	
RR-2001-006	Certain Hot-rolled Carbon Steel Plate	Mexico, China, South Africa and Russian Federation	In progress	

TABLE 4**SIMA Findings and Orders in Force as of March 31, 2002¹**

Review No. or Inquiry No.	Date of Decision	Product	Country	Earlier Decision No. and Date
NQ-96-003	April 11, 1997	Polyiso Insulation Board	United States	
RR-96-004	April 21, 1997	Machine Tufted Carpeting	United States	NQ-91-006 (April 21, 1992)
NQ-96-004	June 27, 1997	Concrete Panels	United States	
RR-97-001	October 20, 1997	Certain Waterproof Rubber Footwear	China	ADT-4-79 (May 25, 1979) ADT-2-82 (April 23, 1982) R-7-87 (October 22, 1987) RR-92-001 (October 21, 1992)
NQ-97-001	October 27, 1997	Certain Hot-rolled Carbon Steel Plate	Mexico, China, South Africa and Russian Federation	
RR-97-002	November 28, 1997	Fresh Iceberg (Head) Lettuce	United States	NQ-92-001 (November 30, 1992)
RR-97-003	December 10, 1997	Bicycles and Frames	Chinese Taipei and China	NQ-92-002 (December 11, 1992)
NQ-97-002	April 29, 1998	Certain Prepared Baby Foods	United States	
NQ-98-001	September 4, 1998	Certain Stainless Steel Round Bar	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei and United Kingdom	
RR-98-001	November 18, 1998	Preformed Fibreglass Pipe Insulation	United States	NQ-93-002 (November 19, 1993)
RR-98-004	May 17, 1999	Certain Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate	Italy, Korea, Spain and Ukraine	NQ-93-004 (May 17, 1994)
NQ-98-003	June 18, 1999	Certain Stainless Steel Round Bar	Korea	
RR-98-005	June 22, 1999	12-gauge Shotshells	Czech Republic and Republic of Hungary	NQ-93-005 (June 22, 1994)
NQ-98-004	July 2, 1999	Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products	France, Romania, Russian Federation and Slovak Republic	

1. To determine the precise product coverage, refer to the findings or orders as identified in the first column of the table.

Findings and Orders in Force (cont'd)

Review No. or Inquiry No.	Date of Decision	Product	Country	Earlier Decision No. and Date
RR-98-006	July 19, 1999	Black Granite Memorials and Black Granite Slabs	India	NQ-93-006 (July 20, 1994)
RR-98-007	July 28, 1999	Certain Corrosion-resistant Steel Sheet Products	Brazil, Germany, Japan, Korea and United States	NQ-93-007 (July 29, 1994)
NQ-99-001	August 27, 1999	Certain Cold-rolled Steel Sheet Products	Belgium, Russian Federation, Slovak Republic and Turkey	
NQ-99-002	January 12, 2000	Certain Concrete Reinforcing Bar	Cuba, Korea and Turkey	
RR-99-002	March 20, 2000	Subsidized Canned Ham	Denmark and Netherlands	GIC-1-84 (August 7, 1984) RR-89-003 (March 16, 1990) RR-94-002 (March 21, 1995)
NQ-99-003	May 1, 2000	Iodinated Contrast Media	United States (including the Commonwealth of Puerto Rico)	
RR-99-003	May 1, 2000	Women's Boots	China	RR-94-003 (May 2, 1995) NQ-89-003 (May 3, 1990)
RR-99-004	June 5, 2000	Carbon Steel Welded Pipe	Korea	RR-94-004 (June 5, 1995) RR-89-008 (June 5, 1990) ADT-6-83 (June 28, 1983)
NQ-99-004	June 27, 2000	Certain Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine	
NQ-2000-001	August 1, 2000	Certain Refrigerators, Dishwashers and Dryers	United States (WCI and Whirlpool)	
RR-99-005	September 13, 2000	Whole Potatoes	United States	RR-94-007 (September 14, 1995) RR-89-010 (September 14, 1990) CIT-16-85 (April 18, 1986) ADT-4-84 (June 4, 1984)

Findings and Orders in Force (cont'd)

Review No. or Inquiry No.	Date of Decision	Product	Country	Earlier Decision No. and Date
NQ-2000-002	October 27, 2000	Certain Stainless Steel Round Bar	Brazil and India	
RR-99-006	November 3, 2000	Refined Sugar	United States, Denmark, Germany, Netherlands, United Kingdom and European Union	NQ-95-002 (November 6, 1995)
NQ-2000-004	December 8, 2000	Waterproof Footwear and Bottoms	China	
NQ-2000-006	May 2, 2001	Garlic, Fresh or Frozen	China and Vietnam	
NQ-2000-007	June 1, 2001	Certain Concrete Reinforcing Bar	Indonesia, Japan, Latvia, Republic of Moldova, Poland, Chinese Taipei and Ukraine	
RR-2000-002	July 24, 2001	Certain Carbon Steel Welded Pipe	Argentina, India, Romania, Chinese Taipei, Thailand and Brazil	NQ-90-005 (July 26, 1991) NQ-91-003 (January 23, 1992) RR-95-002 (July 25, 1996)
NQ-2001-001	August 17, 2001	Certain Flat Hot-rolled Steel Sheet and Strip	Brazil, Bulgaria, China, Chinese Taipei, India, Macedonia, South Africa, Ukraine and Yugoslavia	
NQ-2001-003	December 27, 2001	Leather Footwear with Metal Toe Caps	China	
RR-2001-001	March 20, 2002	Fresh Garlic	China	NQ-96-002 (March 21, 1997)

TABLE 5**SIMA Cases Before the Federal Court of Canada or a Binational Panel Between April 1, 2001, and March 31, 2002**

Case No.	Product	Country of Origin	Forum	File No./Status
NQ-99-003	Iodinated Contrast Media	United States	BP	CDA-USA-2000-1904-02
NQ-2000-001	Certain Refrigerators, Dishwashers and Dryers	United States	BP	CDA-USA-2000-1904-04 Tribunal decision affirmed (January 16, 2002)
NQ-2000-008	Certain Corrosion-resistant Steel Sheet	China, India, Malaysia, Russian Federation, South Africa and Chinese Taipei	FC	A—455—01
NQ-2001-001	Certain Flat Hot-rolled Steel Sheet	Brazil, Bulgaria, China, Chinese Taipei, India, Korea, Macedonia, New Zealand, Saudi Arabia, South Africa, Ukraine and Yugoslavia	FC	A—528—01 Withdrawn (January 4, 2002)
NQ-2001-002	Certain Cold-rolled Steel Sheet	Brazil, Chinese Taipei, Macedonia, Italy, Luxembourg, Malaysia, China, Korea and South Africa	FC	A—650—01
RR-2000-001	Certain Oil and Gas Well Casing	Korea and United States	FC	A—463—01, A—472—01
LE-2001-004	Concrete Panels	United States	FC	A—657—01

Notes: FC — Federal Court of Canada
BP — Binational Panel

CHAPTER IV

APPEALS

Introduction

The Tribunal hears appeals from decisions of the Commissioner under the *Customs Act* and SIMA or of the Minister of National Revenue (the Minister) under the *Excise Tax Act*. The Tribunal hears appeals relating to the tariff classification and value for duty of goods imported into Canada and relating to the origin of goods imported from the United States, Mexico and Chile under the *Customs Act*. The Tribunal also hears and decides appeals concerning the application, to imported goods, of a Tribunal finding or order concerning dumping or subsidizing and the normal value or export price or subsidy of imported goods under SIMA. Under the *Excise Tax Act*, a person may appeal to the Tribunal the Minister's decision about an assessment or determination of federal sales tax or excise tax.

The Tribunal strives to be informal and accessible. However, there are certain procedures and time constraints that are imposed by law and by the Tribunal. For example, the appeal process is set in motion with a notice (or letter) of appeal, in writing, sent to the Secretary of the Tribunal within the time limit specified in the act under which the appeal is made.

Rules of Procedure

Under the Rules of Procedure, the person launching the appeal (the appellant) normally has 60 days to submit to the Tribunal a document called a "brief". Generally, the brief states under which act the appeal is launched, gives a description of the goods in issue and an indication of the points at issue between the appellant and the Minister or Commissioner (the respondent) and states why the appellant believes that the respondent's decision is incorrect. A copy of the brief must also be given to the respondent.

The respondent must also comply with time and procedural constraints. Normally, within 60 days after having received the appellant's brief, the respondent must provide the Tribunal and the appellant with a brief setting forth his position. The Secretary of the Tribunal then contacts both parties in order to schedule a hearing. Hearings are generally conducted before Tribunal members in public. The Tribunal publishes a notice of the hearing in the *Canada Gazette* to allow other interested persons to attend. Depending on the complexity and precedential nature of the matter at issue, appeals will be heard by a panel of one or three members. Persons may intervene in an appeal by specifying the nature of their interest in the appeal and by indicating the reason for intervening and how they may assist the Tribunal in the resolution of the appeal.

Hearings

An individual may present a case before the Tribunal in person, or be represented by legal counsel or by any other representative. The respondent is generally represented by counsel from the Department of Justice.

Hearing procedures are designed to ensure that the appellant and the respondent are given a full opportunity to make their case. They also enable the Tribunal to have the best information possible to make a decision. As in a court, the appellant and the respondent can call witnesses, and these witnesses are questioned under oath or affirmation by the opposing parties, as well as by Tribunal members, in order to test the validity of their evidence. When all the evidence is gathered, parties may present arguments in support of their respective position.

The Tribunal, on its own initiative or on the request of the appellant or the respondent, may decide to hold a hearing by way of written submissions. In that case, the Tribunal publishes a notice of the hearing in the *Canada Gazette* to allow other interested persons to participate. In the notice, the Tribunal establishes the manner and timing for filing the submissions and the requirement, if appropriate, for the parties to file an agreed statement of facts.

The Tribunal also hears appeals by way of electronic transmission, either by teleconference or videoconference.

Teleconference hearings are used mainly to dispose of preliminary motions and jurisdictional issues where witnesses are not required to attend or give evidence.

Videoconference hearings are used as an alternative to holding hearings in locations across Canada or requiring parties from outside Ontario or Quebec to present themselves at the Tribunal's premises in Ottawa. The procedures are very similar to hearings held before the Tribunal at its premises. However, the Tribunal requires that written materials, exhibits, aids to argument, etc., be filed with the Tribunal prior to the videoconference hearing.

Usually, within 120 days of the hearing, the Tribunal issues a decision on the matters in dispute, including the reasons for its decision.

If the appellant, the respondent or an intervener disagrees with the Tribunal's decision, the decision can be appealed to the Federal Court of Canada.

**Legislative
Amendments to
the *Customs Act*
that Affect the
Tribunal's
Jurisdiction**

On November 29, 2001, legislative amendments to the *Customs Act* came into force. Section 67.1 of the *Customs Act* now provides a means by which a person who has failed to file a notice of appeal within the 90-day period set out in section 67 can apply to the Tribunal for a time extension.

In order to be granted an extension under section 67.1 of the *Customs Act*, the person making the application must meet several conditions. Firstly, the application must have been made within one year after the expiry of the 90-day period set out in section 67. Secondly, the person making the application must demonstrate that the person was unable to act or to give a mandate to act in the person's name or the person had a *bona fide* intention to appeal. Thirdly, the person making the application must demonstrate that it would be just and equitable to grant the application. Fourthly, the application must have been made as soon as circumstances permitted. Lastly, there must exist reasonable grounds for the appeal. The application must also set out the reasons why the notice of appeal was not filed on time.

If the person making the application meets the above conditions, the Tribunal may make an order extending the time for appealing and may impose any terms that it considers just. Contrary to section 81.32 of the *Excise Tax Act*, subsection 67.1(3) of the *Customs Act* requires that the application for the time extension be accompanied by the notice of appeal. This means that, if the Tribunal decides to grant an extension, it will have to issue an order extending the time limit for filing a notice of appeal, notwithstanding the fact that the notice of appeal will have already been filed.

Under section 60 of the *Customs Act*, an importer can request a redetermination of the origin, tariff classification or value for duty of imported goods, within 90 days after being given a notice of a determination. Prior to the coming into force of sections 60.1 and 60.2, once the 90-day period had expired, the importer had no right to request a redetermination and did not have any other recourse.

Under section 60.1 of the *Customs Act*, an importer will have the option, once the 90-day period has expired, but within one year from the expiry date, to make an application to the Commissioner for an extension of the time to file a request for a redetermination. If the Commissioner refuses to grant the extension, the importer can take advantage of section 60.2 and request an extension directly from the Tribunal. Section 60.2 of the *Customs Act* provides that a person who has made an application for an extension of time to the Commissioner may apply to the Tribunal to have that application granted where the Commissioner refused it or where 90 days have elapsed since the application was made and the Commissioner has not notified the person of his decision. The application must be

**Appeals
Considered**

made by filing with the Commissioner and the Secretary of the Tribunal a copy of the application or of the notice of decision made by the Commissioner. The Tribunal may dismiss or grant the application and, in granting the application, it may impose any terms it considers just or order that the request is valid as of the date of the order.

In order to be granted an extension under subsection 60.2(4) of the *Customs Act*, the person making the application must meet several conditions. Firstly, the application must have been made within one year after the expiry of the 90-day period set out in section 60. Secondly, the person making the application must demonstrate that the person was unable to act or to give a mandate to act in the person's name or the person had a *bona fide* intention to appeal. Thirdly, the person making the application must demonstrate that it would be just and equitable to grant the application. Fourthly, the application must have been made as soon as circumstances permitted. Lastly, there must exist reasonable grounds for the appeal. The application must also set out the reasons why the notice of appeal was not filed on time.

During the fiscal year, the Tribunal heard 33 appeals of which 19 related to the *Customs Act*, 12 to the *Excise Tax Act* and 2 to SIMA. Decisions were issued in 59 cases, of which 17 were heard during the fiscal year.

Decisions on Appeals

Act	Allowed	Allowed in Part	Dismissed	Total
<i>Customs Act</i>	10	8	28	46
<i>Excise Tax Act</i>	-	1	11	12
SIMA	-	-	1	1

Table 1 of this chapter lists the appeal decisions rendered in the fiscal year.

**Summary of
Selected
Decisions**

Of the many cases heard by the Tribunal in carrying out its appeal functions, several decisions stand out, either because of the particular nature of the product in issue or because of the legal significance of the case. Brief summaries of a representative sample of such appeals follow, of which three were heard under the *Customs Act*, one under the *Excise Tax Act* and one under SIMA. These summaries have been prepared for general information purposes only and have no legal status.

Costco Canada Inc.
v.
CCRA
AP-2000-050

Decision:
Appeal dismissed
(November 30, 2001)

This was an appeal under subsection 67(1) of the former and current *Customs Act* from decisions of the Commissioner dated September 14, 2000, pursuant to subsection 63(3) of the former *Customs Act* and subsection 60(4) of the current *Customs Act*.

The issue in this appeal concerned the classification of cases containing art materials. The respondent claimed that these cases should be classified as other pencils, crayons and pastels (tariff item No. 9609.90.00) or as felt-tipped pens (tariff item No. 9608.20.00). The appellant argued that the cases should be classified as other toys (tariff item No. 9503.90.00) or as other toys, put up in sets or outfits (tariff item No. 9503.70.90).

The appeal was dismissed. The Tribunal determined that the goods in issue were not classifiable as toys, given that nearly one half of the contents were made up of articles that are excluded from heading No. 95.03. Rather, the goods in issue were properly classified, pursuant to Rule 3 (b) of the *General Rules for the Interpretation of the Harmonized System* (the General Rules), under tariff item No. 9609.90.00 as other pencils, crayons and pastels. These objects were found to comprise approximately 60 percent of the goods in issue.

**Les Produits Bariatrix
International Inc.**
v.
CCRA
AP-2000-052

Decision:
Appeal dismissed
(February 21, 2002)

The respondent issued a redetermination in respect of goods imported by the appellant, requiring the payment of anti-dumping duties in accordance with the Tribunal's findings in Inquiry No. NQ-95-002. The redetermination was based on the respondent's finding that the product in issue, imported by the appellant from the United States, was refined sugar and of the same description as the goods to which the Tribunal's findings apply.

In determining that the product in issue was refined sugar, the respondent relied on results of polarimetric testing done on samples of the product by the laboratory at the CCRA. According to the subheading note in Chapter 17, a polarimeter reading of less than 99.5 degrees indicates raw sugar.

The appellant argued that criteria for the description of the sugar, other than its polarimeter reading, indicated that the product was not refined sugar. Further, the appellant questioned the accuracy of the polarimetric testing done by the CCRA.

The appeal was dismissed. In Inquiry No. NQ-95-002, anti-dumping duties were imposed on "refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America". The sole issue in this appeal was whether the product in issue was "refined sugar".

1211863 Ontario Inc.
O/A A & T Leasing
v.
MNR
AP-2000-021

Decision:
Appeal allowed in part
(August 1, 2001)

The statement of reasons in Inquiry No. NQ-95-002 referred to the classification under the *Harmonized Commodity Description and Coding System* of the goods to which the findings apply. Of relevance, the polarimeter reading of sugar was identified in the subheading note in Chapter 17 as a means of determining whether sugar is “raw sugar”. In addition, the *Explanatory Notes to the Harmonized Commodity Description and Coding System* (the Explanatory Notes) to heading No. 17.01 state, in part, that “refined cane . . . sugars are produced by the further processing of raw sugar.”

The Tribunal determined that, since the sucrose content by weight of the product in issue, in the dry state, corresponded to a polarimeter reading of 99.7 degrees, the product in issue was not “raw sugar”. It was also of the view that some further processing of the “raw cane sugar” had taken place. This satisfied the terms of the Explanatory Notes to heading No. 17.01, which state, in part, that “refined cane . . . sugars are produced by the further processing of raw sugar.” Moreover, in light of the extended description of the goods in Inquiry No. NQ-95-002, and specifically the reference to “other” specialty sugars, the Tribunal determined that the product in issue could also be characterized as a specialty sugar in granulated form.

This was an appeal under section 81.19 of the *Excise Tax Act* concerning an application for a refund of the excise tax on air conditioners installed in automobiles. On March 23, 2000, the Minister of National Revenue rendered a number of decisions under section 68.1, denying the appellant’s application for a refund of the excise tax imposed on air conditioners installed in exported automobiles.

The issue in this appeal was whether the appellant was entitled to a refund of the excise tax under section 68.1 of the *Excise Tax Act*, which was imposed on air conditioners installed in exported automobiles.

The appeal was allowed in part. According to the Tribunal, to be refundable under section 68.1 of the *Excise Tax Act*, the excise tax must first be payable (i.e. the automobiles must be equipped with air conditioners). Once established that it is payable, the excise tax is deemed to be included in the sale price, pursuant to section 154. Consequently, when the automobiles are sold, the tax is deemed as paid. Further, the automobiles have to be both new and exported. The respondent acknowledged that the above two conditions were met.

The Tribunal determined that the dealers’ invoices (with or without the manufacturer’s invoices), which indicated that an excise tax was included in the price of the automobile or that the automobile was equipped with an air conditioner, were sufficient to establish that an excise tax was payable. The

**Intersave West
Buying and
Merchandising
Services**

**v.
CCRA**

AP-2000-057

*Decision:
Appeal allowed
(January 7, 2002)*

Tribunal also noted that the Goods and Services Tax on the excise tax was reimbursed to the appellant, indicating that it purchased the automobiles and that the exporter paid the excise tax in this case.

The Tribunal concluded that, in all cases where the dealers' invoices, alone or together with the manufacturer's invoices, expressly stated that the excise tax was included in the sale price or that the automobiles were equipped with air conditioners, the appellant was entitled to a refund of the excise tax.

This was an appeal under section 67 of the *Customs Act* from decisions of the Commissioner pursuant to subsection 60(4) of the *Customs Act*. The issue was the proper classification of canned coconut milk.

The respondent argued that the coconut milk was properly classified as other food preparations not elsewhere specified or included (tariff item No. 2106.90.99). The appellant claimed that the product should be classified under tariff item No. 2009.80.19 as other juice of any other single fruit or, in the alternative, under tariff item No. 2008.99.90 as other fruit, nuts and other edible parts of plants.

The appeal was allowed. The product was held to be properly classified as other fruit, nuts and other edible parts of plants (tariff item No. 2008.99.90). The Tribunal noted that heading No. 20.09 covers fruit juices and vegetable juices. On reading the Explanatory Notes to heading No. 20.09, it was clear to the Tribunal that, for a normal fruit juice to be classified in heading No. 20.09, it must not contain added water. As the product in issue contained added water, even if the Tribunal were to consider the coconut milk a normal fruit juice, it would not meet the requirements of the Explanatory Notes to heading No. 20.09.

The Tribunal also examined heading Nos. 20.08 and 21.06. Heading No. 20.08 deals with fruit, nuts and other edible parts of plants. Heading No. 21.06 covers food preparations not elsewhere specified or included. The Explanatory Notes to heading No. 20.08 allow for other substances to be added to the products of this heading, as long as they do not alter the essential character of the fruit or nuts. Thus, the fact that the product in issue contains added water and a preservative does not prevent it from being classified in that heading.

The Tribunal agreed with the appellant as to the residual character of heading No. 21.06 and the fact that the Explanatory Notes to that heading exclude preparations made from fruit and nuts, provided the essential character of the preparation is given by such fruit or nuts. It concluded that the essential character of the canned coconut milk derives from the coconut itself.

**Canadian Tire
Corporation Ltd.**

**v.
CCRA**

AP-2000-056

*Decision:
Appeal allowed
(February 19, 2002)*

This was an appeal under section 67 of the *Customs Act* from three decisions of the Commissioner dated December 6, 2000, under subsection 60(4) of the *Customs Act*. The goods in issue were multi-driver and bit sets and screwdriver sets. The issue in this appeal was the proper classification of these products. The respondent determined that the goods in issue were properly classified as “screwdrivers” (tariff item No. 8205.40.00). The appellant argued the products should be classified as other “interchangeable tools” (tariff item No. 8207.90.90) or as “tool holders” (tariff item No. 8466.10.00).

The appeal was allowed. The Tribunal determined that the goods in issue were not classifiable under Rule 1 of the General Rules as screwdrivers in heading No. 82.05. It concluded that the goods in issue were in fact two articles classifiable in different headings.

The Tribunal determined that the products were sets put up for retail sale. Heading Nos. 82.07 and 84.66 refer to part only of the products in issue and were held to be equally specific and applicable. It also examined Rules 3(a) and 3(b) of the General Rules. Rule 3(a) was held to be inapplicable. Rule 3(b), however, guided the Tribunal to the conclusion that the essential character of the sets was provided by the screwdriver bits. The multi-driver and bit sets were comprised of 17 bits and the screwdriver set was made up of 28 bits, or the majority of the components. The Tribunal determined that the screwdriver bits gave the sets their broad functionality and adaptability and gave the consumer the ability to work with a range of screws. It also found that the goods in issue should be classified under tariff item No. 8207.90.90.

On June 7, 2001, the Supreme Court of Canada handed down a decision that dealt with the standard of review applicable to the Tribunal’s decisions with respect to the value for duty of imported goods under the *Customs Act*. In *Canada (Deputy Minister of National Revenue) v. Mattel Canada*, [2001] 2 S.C.R. 100, the Supreme Court of Canada decided that the appropriate standard of review applicable to the Tribunal’s decisions in such cases is correctness with respect to questions of law.

Questions of law requiring the application of principles of statutory interpretation and other concepts relating to commercial law are reviewable by the courts. The Tribunal’s decisions with respect to the value for duty of imported goods and other matters under the *Customs Act* are protected by a partial privative clause, qualified by a statutory right of appeal to the Federal Court of Appeal on “any question of law”. This right to appeal on questions of law derives from the fact that the Tribunal’s expertise does not speak to such matters, for example, as are intrinsic to commercial law.

**Important
Decision by the
Supreme Court of
Canada on the
Standard of
Review of the
Tribunal’s
Decisions**

TABLE 1**Appeal Decisions Rendered Under Section 67 of the *Customs Act*, Section 81.19 of the *Excise Tax Act* and Section 61 of SIMA Between April 1, 2001, and March 31, 2002**

Appeal No.	Appellant	Date of Decision	Decision
<i>Customs Act</i>			
AP-99-045	Prins Greenhouses Ltd.	April 9, 2001	Allowed in part
AP-99-067	Toys "R" Us (Canada) Ltd.	April 12, 2001	Allowed
AP-95-149 to AP-95-165, AP-95-067 and AP-95-168	Toyota Canada Inc.	May 2, 2001	Dismissed
AP-98-041 and AP-98-060	Weiser Inc.	June 25, 2001	Allowed
AP-2000-018	Transilwrap of Canada, Ltd.	September 11, 2001	Allowed
AP-2000-028	Alliance RO-NA Home Inc.	September 17, 2001	Dismissed
AP-2000-060	Utex Corporation	September 26, 2001	Allowed
AP-2000-035	Abraham I. Goldrich	October 17, 2001	Allowed
AP-2000-047	Imation Canada Inc.	November 29, 2001	Allowed
AP-2000-050	Costco Canada Inc.	November 30, 2001	Dismissed
AP-2000-020	Bryce Rollins	December 21, 2001	Dismissed
AP-2000-059	Wayne Ericksen	January 3, 2002	Dismissed
AP-2000-057	Intersave West Buying and Merchandising Services	January 7, 2002	Allowed
AP-2000-013	Rebecca Wigod	January 10, 2002	Dismissed
AP-2000-022	Clariant (Canada) Inc.	January 25, 2002	Allowed
AP-2000-056	Canadian Tire Corporation Limited	February 19, 2002	Allowed
AP-96-230 to AP-96-236	Great Canadian Casino Company Ltd.	February 26, 2002	Allowed in part
AP-99-080	Charles Leung	February 27, 2002	Dismissed
AP-2001-019	Travis G. Parent	March 6, 2002	Dismissed
AP-2000-041	Formica Canada Inc.	March 7, 2002	Dismissed
AP-2000-040	Sable Offshore Energy Incorporated	March 15, 2002	Dismissed

Appeal Decisions Rendered (cont'd)

Appeal No.	Appellant	Date of Decision	Decision
<i>Excise Tax Act</i>			
AP-91-074	Steven Fitelovitch Advertising Inc.	April 20, 2001	Dismissed
AP-99-062	Barney Printing Limited	May 15, 2001	Dismissed
AP-91-073	Howes, Waldon Associates Ltd.	May 25, 2001	Dismissed
AP-91-071 and AP-91-072	Johnston & Beaudry Advertising & Design Inc.	July 12, 2001	Dismissed
AP-2000-021	1211863 Ontario Inc. o/a A&T Leasing	August 1, 2001	Allowed in part
AP-97-086 to AP-97-090	Beatrice Foods Inc.	February 19, 2002	Dismissed
AP-99-088	Montecristo Jewellers Inc.	March 15, 2002	Dismissed
SIMA			
AP-2000-052	Les Produits Bariatrix International Inc.	February 21, 2002	Dismissed

TABLE 2

Tribunal Decisions Appealed to the Federal Court of Canada Between April 1, 2001, and March 31, 2002, and Pending as of March 31, 2002¹

Appeal No.	Appellant	Federal Court No.
AP-89-013	Hyalin International (1986) Inc.	T—1635—92
AP-90-117	Artec Design Inc.	T—1556—92
AP-91-141	The Sheldon L. Kates Design Group Limited	T—2957—94
AP-93-123	W. Ralston (Canada) Inc.	T—2112—95
AP-93-264	Cragg & Cragg Design Group Ltd.	T—2942—94
AP-96-056	Informco Inc.	T—2689—97
AP-97-137	Asea Brown Boveri Inc.	A—171—00
AP-98-047	N.C. Cameron & Sons Ltd.	A—341—00
AP-99-062	Barney Printing Limited	T—1627—01
AP-2000-035	Abraham Goldrich	A—023—02

1. The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not participate in appeals to the Federal Court of Canada, it is unable to confirm that the list contains all Tribunal decisions appealed to the Federal Court of Canada between April 1, 2001, and March 31, 2002.

TABLE 3**Appeal Decisions of the Federal Court of Canada Rendered Between April 1, 2001, and March 31, 2002¹**

Appeal No.	Appellant	Federal Court No.	Decision	Date
AP-89-153	Mo-Tires Ltd.	T—3288—90	Discontinued	September 10, 2001
AP-90-076	Kliewer's Cabinets Ltd.	T—1331—91/ T—1986—94	Dismissed	December 28, 2001
AP-91-045	Imperial Cabinet (1980) Co. Ltd.	T—1557—92	Dismissed	December 28, 2001
AP-94-212 and AP-94-213	Chaps Ralph Lauren, A Division of 131384 Canada Inc. and Modes Alto-Regal, Inc.	A—53—98	Discontinued	November 30, 2001
AP-97-063, AP-97-067, AP-97-077, AP-97-079, AP-97-084, AP-97-085, AP-97-096, AP-97-103, AP-97-115 and AP-97-136	AYP (Canada) Inc.	A—57—00	Dismissed	May 10, 2001
AP-99-014	Patagonia International Inc.	A—820—00	Discontinued	August 3, 2001
AP-99-029 and AP-99-046	Sanyo Canada Inc.	A—605—00	Discontinued	June 1, 2001
AP-99-063	GL&V/Black Clawson-Kennedy	A—306—00	Dismissed	January 30, 2002
AP-99-083	Sandvik Tamrock Canada Inc. and Secoroc, A Division of Atlas Copco Canada Inc.	A—550—00	Allowed	November 9, 2001
AP-99-105	Yamaha Motor Canada Ltd.	A—001—01	Dismissed	January 24, 2002

1. The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not participate in appeals to the Federal Court of Canada, it is unable to confirm that the list contains all appeals that were decided between April 1, 2001, and March 31, 2002.

CHAPTER V

ECONOMIC, TRADE AND TARIFF REFERENCES AND SAFEGUARD INQUIRIES

Introduction

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.

One of the responsibilities of the Tribunal is to conduct inquiries to determine if Canadian producers are being seriously injured by increased imports of goods into Canada. The Tribunal may initiate import safeguard inquiries following a complaint by domestic producers. The Government may also direct the Tribunal to conduct import safeguard inquiries. Pursuant to an inquiry where the Tribunal determines that increased imports of the goods have caused, or are threatening to cause, serious injury to Canadian producers of like or directly competitive goods, the Government may apply import safeguard measures to assist those domestic producers.

Safeguard Inquiry

On March 21, 2002, the Tribunal was directed by Her Excellency the Governor General in Council, on the recommendation of the Minister of Finance and the Minister for International Trade, pursuant to paragraph 20(a) of the CITT Act, to inquire into and report on the importation of certain steel goods.

The purpose of this inquiry is to determine whether any of the goods subject to the inquiry is being imported into Canada from all sources in such increased quantities since the beginning of 1996, and under such conditions, as to be a principal cause of serious injury or threat thereof to domestic producers of like or directly competitive goods. If the Tribunal makes an affirmative determination with respect to a good, the Tribunal shall provide recommendations in respect of the good as to the most appropriate remedy to address, over a period of three years, the injury caused or threatened to be caused by increased imports of that good.

The goods subject to the inquiry include flat-rolled carbon and alloy steel products, carbon and alloy “long” steel products, and welded and seamless, carbon and alloy tubular steel products. The goods with respect to which the

Textile Reference

Tribunal will conduct its inquiry are the following: flat-rolled carbon and alloy steel discrete plate; flat-rolled carbon and alloy steel hot-rolled sheet and coil; flat-rolled carbon and alloy steel cold-rolled sheet and coil; flat-rolled carbon and alloy steel corrosion-resistant sheet and coil; carbon and alloy hot-rolled bars; carbon and alloy hot-rolled shapes and light and intermediate structurals; carbon and alloy cold-drawn and finished bars and rods; and carbon and alloy concrete reinforcing bars; and welded and seamless carbon and alloy tubular steel pipe to 16" O.D.

As directed by Her Excellency, the Tribunal will submit a notice of any determination on July 4, 2002, and its report on any determination and any recommendation on August 19, 2002.

Scope of the Reference

Pursuant to a reference from the Minister of Finance dated July 6, 1994, as amended on March 20 and July 24, 1996, on November 26, 1997, and on August 19, 1999, the Tribunal was directed to investigate requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and to make recommendations in respect of those requests to the Minister of Finance.

A domestic producer may apply for tariff relief on an imported textile input used, or proposed to be used, in its manufacturing operations. The textile inputs on which tariff relief may be requested are the fibres, yarns and fabrics of Chapters 51, 52, 53, 54, 55, 56, 58, 59 and 60; certain monofilaments or strips and textile and plastic combinations of Chapter 39; rubber thread and textile and rubber combinations of Chapter 40; and products of textile glass fibres of Chapter 70 of the schedule to the *Customs Tariff*. Since July 24, 1996, and at least until July 1, 2002, the following yarns are not included in the textile reference:

Knitting yarns, solely of cotton or solely of cotton and polyester staple fibres, measuring more than 190 decitex, of Chapter 52 or subheading No. 5509.53 other than those used to make sweaters, having a horizontal self-starting finished edge and the outer surfaces of which are constructed essentially with 9 or fewer stitches per 2 centimetres (12 or fewer stitches per inch) measured in the horizontal direction.

Types of Relief Available

The tariff relief that may be recommended by the Tribunal to the Minister of Finance ranges from the removal or reduction of tariffs on one or several, partial or complete, tariff lines, textile- and/or end-use-specific tariff provisions. In the case of requests for tariff relief on textile inputs used in the manufacture of women's swimsuits, co-ordinated beachwear and co-ordinated accessories only, the recommendation could include company-specific relief. The recommendation

	<p>could be for tariff relief for either a specific or an indeterminate period of time. However, the Tribunal will only recommend tariff relief that is administrable on a cost-effective basis.</p>
<p>Process</p>	<p>Domestic producers seeking tariff relief must file a request with the Tribunal. Producers must file with the request either samples of the textile input for which tariff relief is being sought or a National Customs Ruling from the CCRA covering the input. If the Tribunal determines that the request is properly documented, it will conduct an investigation to determine if it should recommend tariff relief.</p>
<p>Filing and Notification of a Request</p>	<p>Upon receipt of a request for tariff relief, and before commencement of an investigation, the Tribunal issues a brief electronic notice on its Web site announcing the request. The minimum period of time for the notification of a request before an investigation is commenced is 30 days.</p> <p>This notification is designed to increase transparency, identify potential deficiencies in the request, avoid unnecessary investigations, provide an opportunity for the domestic textile industry to contact the requester and agree on a reasonable domestic source of supply, inform other users of identical or substitutable textile inputs, prepare the domestic industry to respond to subsequent investigation questionnaires and give associations advance time for planning and consultation with their members.</p>
<p>Investigations</p>	<p>When the Tribunal is satisfied that a request is properly documented, it commences an investigation. A notice of commencement of investigation is sent to the requester, all known interested parties and any appropriate government department or agency, such as the Department of Foreign Affairs and International Trade, the Department of Industry, the Department of Finance and the CCRA. The notice is also published in the <i>Canada Gazette</i>.</p> <p>In any investigation, interested parties include domestic producers, certain associations and other persons who are entitled to be heard by the Tribunal because their rights or pecuniary interests may be affected by the Tribunal's recommendations. Interested parties are given notice of the request and can participate in the investigation. Interested parties include competitors of the requester, suppliers of goods that are identical to or substitutable for the textile input and downstream users of goods produced from the textile input.</p> <p>To prepare a staff investigation report, the Tribunal staff gathers information through such means as plant visits and questionnaires. Information is obtained</p>

from the requester and interested parties, such as a domestic supplier of the textile input, for the purpose of providing a basis for determining whether the tariff relief sought will maximize net economic gains for Canada.

In normal circumstances, a public hearing is not required, and the Tribunal will dispose of the matter on the basis of the full written record, including the request, the staff investigation report and all submissions and evidence filed with the Tribunal.

The procedures for the conduct of the Tribunal's investigation envisage the full participation of the requester and all interested parties. A party, other than the requester, may file submissions, including evidence, in response to the properly documented request, the staff investigation report and any information provided by a government department or agency. The requester may subsequently file submissions with the Tribunal in response to the staff investigation report and any information provided by a government department or agency or other party.

Recommendations to the Minister

The Tribunal will normally issue its recommendations, with reasons, to the Minister of Finance within 120 days from the date of commencement of the investigation. In exceptional cases, where the Tribunal determines that critical circumstances exist, it will issue its recommendations within an earlier specified time frame that it deems appropriate. The Tribunal will recommend the reduction or removal of customs duties on a textile input where it will maximize net economic gains for Canada.

Request for Review

Where the Minister of Finance has made an order for tariff relief pursuant to a recommendation of the Tribunal, certain domestic producers may make a request to the Tribunal to commence an investigation for the purpose of recommending the renewal, amendment or termination of the order. A request for the amendment or termination of the order should specify what changed circumstances justify such a request.

Review on Expiry

Where the Minister of Finance has made an order for tariff relief subject to a scheduled expiry date, the Tribunal will, before the expiry date, issue a formal notice that the tariff relief provided by the order will expire unless the Tribunal issues a recommendation that tariff relief should be continued and the Minister of Finance implements the recommendation. The notice invites interested parties to file submissions for or against continuation of tariff relief.

If no opposition to the continuation of tariff relief is received, upon receipt of submissions and information supporting the request for continuation of tariff

	<p>relief, the Tribunal may decide to recommend the continuation of tariff relief. Conversely, if no request for continuation of tariff relief is submitted, the Tribunal may decide to recommend the termination of tariff relief. If it appears that a more complete review is warranted, the Tribunal will conduct an investigation to consider whether all relevant factors that led it to recommend tariff relief continue to apply and whether extending tariff relief under such conditions would continue to provide net economic gains for Canada.</p>
<p>Annual Status Report</p>	<p>In accordance with the terms of reference received by the Tribunal directing it to conduct investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their manufacturing operations, the Tribunal provided the Minister of Finance, on February 25, 2002, with its seventh annual status report on the investigation process. The status report covered the period from October 1, 2000, to September 30, 2001.</p>
<p>Recommendations Submitted During the Fiscal Year</p>	<p>During the fiscal year, the Tribunal issued three reports to the Minister of Finance, which related to four requests for tariff relief. At year end, two requests were under investigation. Table 1 at the end of this chapter summarizes these activities.</p>
<p>Recommendations in Place</p>	<p>By the end of the fiscal year, the Government had implemented 85 recommendations by the Tribunal, of which 78 are still subject to tariff relief orders. Table 3 provides a summary of recommendations currently implemented.</p> <p>The implementation of Tribunal recommendations is made by adding new tariff items to the <i>Customs Tariff</i>. During the fiscal year, these tariff items covered imports worth \$172 million (estimated) and provided tariff relief worth \$23 million (estimated); these amounts are comparable to those reported last year.</p> <p>A summary of the Tribunal's recommendations issued during the fiscal year follows.</p>
<p>Scapa Tapes North America Ltd.</p> <p><i>TR-2000-007 and TR-2000-008</i></p> <p><i>Recommendation Indeterminate tariff relief (September 13, 2001)</i></p>	<p>The Tribunal recommended to the Minister of Finance that tariff relief be granted for an indeterminate period of time on importations of woven fabrics, solely of cotton, bleached or dyed, plain weave, ring-spun, weighing not more than 100 g/m², of subheading No. 5208.21 or 5208.31, for use in the manufacture of pressure-sensitive adhesive tape.</p> <p>The Tribunal did not believe that there would be any direct commercial costs associated with the removal of the customs duty on the importation of the subject</p>

Peerless Clothing Inc.

TR-2000-005

*Recommendation:
Indeterminate tariff relief*

(October 1, 2001)

fabrics, as no domestic textile producers produced these fabrics. Accordingly, the Tribunal concluded that tariff relief would provide a yearly benefit to Scapa Tapes North America Ltd. in excess of \$500,000.

The Tribunal recommended to the Minister of Finance that tariff relief be granted for an indeterminate period of time on importations of woven fabrics, solely of combed wool or mixed solely with cotton, silk or man-made fibres, containing 95 percent or more by weight of worsted wool having an average fibre diameter of 18.5 microns or less, of a weight not exceeding 220 g/m², of subheading No 5112.19, for use in the manufacture of men's suits, jackets, blazers, vests (waistcoats) and trousers.

Two domestic textile mills opposed this request. Cleyn & Tinker Inc. (Cleyn & Tinker) argued that it produced a wide range of identical or substitutable fabrics of worsted wool, while Victor Woolen Products, Ltd. (Victor) indicated that, although it did not produce identical or substitutable fabrics, one of its subsidiaries in the United States did.

In its analysis, the Tribunal concentrated exclusively on Cleyn & Tinker because it was of the view that Victor's situation with regard to the potential availability of fabrics produced in the United States was not relevant. The Tribunal noted that Cleyn & Tinker was not, to any large extent, in the market of the very fine wool fabrics that were the subject of the request, but rather in the broader market of wool fabrics with somewhat coarser wool fibres. It further noted that the production and sales of allegedly identical or substitutable fabrics represented a small portion of Cleyn & Tinker's overall activity. The Tribunal also noted that the landed cost of the subject fabrics was, in the vast majority of cases, notably higher than the average selling price of the allegedly substitutable fabrics produced by Cleyn & Tinker.

The Tribunal recognized that, as a result of a certain degree of fabric substitutability, there may be some negative impact from tariff relief on Cleyn & Tinker. However, it was of the view that any costs would be substantially outweighed by the benefits to be gained by Peerless Clothing Inc. and other apparel manufacturers that use these fabrics. These yearly benefits were estimated to be in excess of \$3 million. Consequently, the Tribunal recommended that tariff relief be granted on these fabrics.

Beco Industries Ltd.

TR-2001-002

*Recommendation:
Indeterminate tariff
relief/No tariff relief*

(March 20, 2002)

The Tribunal recommended to the Minister of Finance that tariff relief be granted for an indeterminate period of time on importations from all countries, of woven fabrics of polyester staple fibres, containing less than 85 percent by weight of polyester, mixed solely with cotton, printed, plain weave, of a weight not exceeding 100 g/m², of subheading No. 5513.41, for use in the manufacture of sleeping bags. It did not recommend that tariff relief be granted on woven fabrics, solely of nylon filament yarn, dyed, plain weave, of a weight not exceeding 70 g/m², of subheading No. 5407.42, for use in the manufacture of sleeping bags or sleeping bag carrying sacks of the same material.

The Tribunal noted that Consoltex Inc. and Doubletex Inc. are producers of woven fabrics of nylon and that both companies have produced and sold nylon fabrics to a number of Canadian manufacturers of sleeping bags and still count, among their customers, some of the largest domestic producers of sleeping bags. This is clear evidence that the domestic textile industry has the ability to supply nylon fabrics for the production of sleeping bags and sleeping bag carrying sacks.

With regard to the issue of net economic impact, the Tribunal saw no cost as a result of the tariff relief on polyester-cotton fabrics requested by Beco Industries Ltd. (Beco). On the basis of the information available to the Tribunal, tariff relief would provide yearly benefits to Beco in the form of reduced input costs of over \$50,000. As for Beco's request for retroactive tariff relief, the Tribunal stated, in previous cases, that it will not consider recommending such relief other than in exceptional circumstances. Beco provided no evidence to warrant such a recommendation.

TABLE 1

Disposition of Requests for Tariff Relief Between April 1, 2001, and March 31, 2002

Request No.	Requester	Textile Input	Date of Disposition	Status/Recommendations
TR-2000-005	Peerless Clothing Inc.	Fabric	October 1, 2001	Indeterminate tariff relief
TR-2000-006	Doubletex	Fabric	In progress	
TR-2000-007	Scapa Tapes North America Ltd.	Fabric	September 13, 2001	Indeterminate tariff relief
TR-2000-008	Scapa Tapes North America Ltd.	Fabric	September 13, 2001	Indeterminate tariff relief
TR-2001-001	Gibson Textile Dyers Ltd.	Fabric	In progress	
TR-2001-002	Beco Industries Ltd.	Fabric	March 20, 2002	Indeterminate tariff relief for certain polyester-cotton fabrics; no tariff relief for certain nylon fabrics

TABLE 2**Tariff Relief Recommendations in Place**

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-94-001		Canatex Industries (Division of Richelieu Knitting Inc.)	5402.41.12	Indeterminate
TR-94-004		Woods Canada Limited	5208.52.10	Indeterminate
TR-94-010		Palliser Furniture Ltd.	5806.20.10	Indeterminate
TR-94-012		Peerless Clothing Inc.	5309.29.20	Indeterminate
TR-94-013 and TR-94-016		MWG Apparel Corp.	5208.42.20 5208.43.20 5208.49.20 5513.31.10 5513.32.10 5513.33.10	Indeterminate
TR-94-017 and TR-94-018		Elite Counter & Supplies	9943.00.00	Indeterminate
TR-95-003		Landes Canada Inc.	5603.11.20 5603.12.20 5603.13.20 5603.14.20 5603.91.20 5603.92.20 5603.93.20 5603.94.20	Indeterminate
TR-95-004		Lingerie Bright Sleepwear (1991) Inc.	5208.12.20 5208.52.20	Indeterminate
TR-95-005		Lingerie Bright Sleepwear (1991) Inc.	5513.11.10 5513.41.10	Indeterminate
TR-95-009		Peerless Clothing Inc.	5408.21.10 5408.21.20 5408.22.21 5408.22.30	Indeterminate
TR-95-010 and TR-95-034		Freed & Freed International Ltd. and Fen-nelli Fashions Inc.	5111.19.10 5111.19.20	Indeterminate
TR-95-011		Louben Sportswear Inc.	5408.31.10 5408.32.20	Indeterminate
TR-95-012		Perfect Dyeing Canada Inc.	5509.32.10	Indeterminate

Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-95-013A		Doubletex	5208.11.30 5208.12.40 5208.13.20 5208.19.30 5208.21.40 5208.22.20 5208.23.10 5208.29.20 5209.11.30 5209.12.20 5209.19.30 5209.21.20 5209.22.10 5209.29.20	Indeterminate
TR-95-036		Canadian Mill Supply Co. Ltd.	5208.21.20	Indeterminate
TR-95-037		Paris Star Knitting Mills Inc.	5408.24.11 5408.24.91 5408.34.10 5516.14.10 5516.24.10	Indeterminate
TR-95-051		Camp Mate Limited	5407.41.10 5407.42.10 5407.42.20 5903.20.22	Indeterminate
TR-95-053 and TR-95-059		Majestic Industries (Canada) Ltd. and Caulfeild Apparel Group Ltd.	5802.11.10 5802.19.10 5802.19.20	Indeterminate
TR-95-056		Sealy Canada Ltd.	3921.19.10 5407.69.10 5407.73.10 5407.94.10 5516.23.10 5903.90.21 6002.43.20	Indeterminate
TR-95-057 and TR-95-058		Doubletex	5407.51.10 5407.61.92 5407.69.10 5515.11.10 5516.21.10 5516.91.10	Indeterminate
TR-95-060		Triple M Fiberglass Mfg. Ltd.	7019.59.10	Indeterminate
TR-95-061		Camp Mate Limited	6002.43.30	Indeterminate
TR-95-064 and TR-95-065		Lady Americana Sleep Products Inc. and el ran Furniture Ltd.	6002.43.60	Indeterminate

Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-96-003		Venture III Industries Inc.	5407.61.92	Indeterminate
TR-96-004		Acton International Inc.	5906.99.21	Indeterminate
TR-96-006		Alpine Joe Sportswear Ltd.	P.C. 1998-1118	Six years
TR-96-008 and TR-96-010 to TR-96-013		Les Collections Shan Inc.	P.C. 1997-1668	Five years
TR-97-001		Jones Apparel Group Canada Inc.	5407.91.10 5407.92.20 5407.93.10 5408.21.30 5408.22.40 5408.23.20 5408.31.30 5408.32.40 5408.33.10	Indeterminate
TR-97-002 and TR-97-003		Universal Manufacturing Inc.	5208.43.30 5513.41.20	Indeterminate
TR-97-006		Peerless Clothing Inc.	5407.51.30 5903.90.22 5903.90.23 5903.90.24 6002.43.40 6002.43.50	Indeterminate
TR-97-004, TR-97-007, TR-97-008 and TR-97-010		Blue Bird Dress of Toronto Ltd.	5407.51.20 5407.52.20 5407.61.94 5407.69.20	Indeterminate
TR-97-011		Australian Outback Collection (Canada) Ltd.	5209.31.20 5907.00.16	Indeterminate
TR-97-012		Ballin Inc.	5407.93.30 5516.23.20	Indeterminate
TR-97-014		Lenrod Industries Ltd.	5603.93.40	Indeterminate
TR-97-015, TR-97-016 and TR-97-020		Helly Hansen Canada Ltd.	5903.20.24	Indeterminate
TR-98-001		Cambridge Industries	5608.19.20	Indeterminate
TR-98-002		Distex Inc.	6002.92.20	Indeterminate

Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-98-004, TR-98-005 and TR-98-006		Ladcal Investments Ltd., O/A Pintar Manufacturing Nour Trading House and T.S. Simms and Company Limited	5806.10.20	Indeterminate
TR-98-007		Caulfeild Apparel Group Ltd.	5208.43.30	Indeterminate
TR-98-016		Peerless Clothing Inc.	5407.93.20	Indeterminate
TR-98-017		Jones Apparel Group Canada Inc.	5408.32.50 5408.33.20 5408.34.20	Indeterminate
TR-98-019		Tribal Sportswear Inc.	5209.12.30 5209.22.20 5209.32.10	Indeterminate
TR-99-002		Albany International Canada Inc.	5404.10.20	Indeterminate
TR-99-003/003A		Western Glove Works Ltd.	5209.31.30 5209.32.30	Indeterminate
TR-99-004		Peerless Clothing Inc.	5112.11.20 5112.11.30 5112.19.20 5112.19.30	Indeterminate
TR-99-005		Distex Inc.	6002.92.30	Indeterminate
TR-99-006		Coloridé Inc.	5402.41.15	Indeterminate
TR-99-008		JMJ Fashions Inc.	5407.61.20	Indeterminate
TR-2000-001		Peerless Clothing Inc.	5408.22.22	Indeterminate
TR-2000-002		Majestic Industries (Canada) Ltd.	5802.19.30	Indeterminate
TR-2000-003		Tantalum Mining Corporation of Canada Limited	5911.40.10	Indeterminate
TR-2000-004		Ballin Inc.	5516.23.30 5516.93.20	Indeterminate
TR-2000-005		Peerless Clothing Inc.	5112.11.40 5112.19.40	Indeterminate
TR-2000-007 and TR-2000-008		Scapa Tapes North America Ltd.	5208.21.50 5208.31.20	Indeterminate
TA-98-001	TE-97-004 (TR-95-009)	Certain dyed woven fabrics of rayon and polyester	5408.31.20 5408.32.30	Indeterminate
TA-98-002	TE-97-003 (TR-94-009)	Vinex FR-9B fabric	5512.99.10	Indeterminate

Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TA-98-003	TE-98-001 (TR-95-014)	Woven cut warp pile fabrics	5801.35.10	Indeterminate
TA-98-004	TE-98-002 (TR-94-002 and TR-94-002A)	Certain ring-spun yarns	5205.14.20 5205.15.20 5205.24.20 5205.26.20 5205.27.20 5205.28.20 5205.35.20 5205.46.20 5205.47.20 5205.48.20 5206.14.10 5206.15.10 5206.24.10 5206.25.10 5509.53.10 5509.53.20 5509.53.30 5509.53.40	Three years

CHAPTER VI

PROCUREMENT REVIEW

Introduction

Suppliers may challenge federal government procurement decisions that they believe have not been made in accordance with the requirements of the following agreements: Chapter Ten of NAFTA, Chapter Five of the AIT, the AGP, or the *Canada-Korea Agreement on the Procurement of Telecommunications Equipment*. The bid challenge portions of these agreements came into force on January 1, 1994, July 1, 1995, January 1, 1996, and September 1, 2001, respectively.

Any potential suppliers who believe that they may have been unfairly treated during the solicitation or evaluation of bids, or in the awarding of contracts on a designated procurement, may lodge a formal complaint with the Tribunal. A potential supplier with an objection is encouraged to resolve the issue first with the government institution responsible for the procurement. When this process is not successful or a supplier wants to deal directly with the Tribunal, the complainant may ask the Tribunal to consider the case by filing a complaint within the prescribed time limit.

When the Tribunal receives a complaint, it reviews the submission against the criteria for filing. If there are deficiencies, the complainant is given an opportunity to correct these within a specified time limit. If the Tribunal decides to conduct an inquiry, the government institution and all other interested parties are sent a formal notification of the complaint. An official notice of the complaint is also published on MERX and in the *Canada Gazette*. If the contract in question has not been awarded, the Tribunal may order the government institution to postpone awarding any contract pending the disposition of the complaint by the Tribunal, unless the government institution certifies that the procurement is urgent or that the delay would be contrary to the public interest.

After receipt of its copy of the complaint, the government institution responsible for the procurement files a Government Institution Report (GIR) responding to the allegations. The complainant and any intervener are then sent a copy of the GIR and have seven days to submit comments. These are forwarded to the government institution and parties to the inquiry.

Copies of any other submissions or reports prepared for the inquiry are also circulated to the parties for their comments. Once this phase of the inquiry is completed, the Tribunal reviews the information collected and decides whether a hearing should be held.

The Tribunal then determines whether the complaint is valid. If the complaint is found to be valid, the Tribunal may make recommendations to the government institution (such as retendering, re-evaluating or providing compensation) and award reasonable costs to a prevailing complainant for preparing and proceeding with the bid challenge and/or costs for preparing the bid. The government institution, as well as all other parties and interested persons, is notified of the Tribunal's decision. Recommendations made by the Tribunal in its determination are, by statute, to be implemented to the greatest extent possible.

Summary of Procurement Review Activities

	2000-2001	2001-2002
NUMBER OF COMPLAINTS		
Carried over from previous fiscal year	9	22
Received in fiscal year	78	77
TOTAL	87	99
CASES RESOLVED BY THE PARTIES		
Withdrawn or Resolved by the Parties	5	11
Abandoned While Filing	1	-
Subtotal	6	11
INQUIRIES NOT INITIATED OR CONTINUED ON PROCEDURAL GROUNDS		
Lack of Jurisdiction	6	8
Late or Improper Filing	8	12
No Valid Basis/No Reasonable indication of a breach/Premature	17	16
Dismissed	-	3
Subtotal	31	39
CASES DETERMINED ON MERIT		
Complaint Not Valid	15	9
Complaint Valid or Valid in Part	13	23
Subtotal	28	32
OUTSTANDING AT END OF FISCAL YEAR	22	17

Summary of Selected Determinations

During the fiscal year, the Tribunal issued 32 written determinations of its findings and recommendations, which related to 32 procurement complaints. In 23 of the 32 written determinations, the complaints were determined to be valid or valid in part. Seventeen cases were in progress at year end. Table 1 at the end of this chapter summarizes these activities.

***Polaris Inflatable
Boats (Canada) Ltd.***

*PR-2000-044
and PR-2000-049
to PR-2000-053*

*Determination:
Five complaints valid in
part/One complaint
dismissed
(May 14, 2001)*

Of the cases heard by the Tribunal in carrying out its procurement review functions, certain decisions stand out because of the legal significance of the cases. Brief summaries of a representative sample of such cases have been prepared for general information purposes only and have no legal status.

The Tribunal made a determination with respect to six complaints filed by Polaris Inflatable Boats (Canada) Ltd. (Polaris) concerning six solicitations of the offices of the Pacific, Ontario, Quebec and Atlantic Regions of the Department of Public Works and Government Services (PWGSC). These solicitations were for the supply of six- and seven-metre rigid hull inflatable boats (RHIBs) for the Department of Fisheries and Oceans (DFO) and its constituent, the Canadian Coast Guard. Together, these solicitations were for the supply of 12 RHIBs in fiscal year 2000-2001 and up to 29 additional RHIBs during the following two fiscal years.

Polaris alleged that, by issuing so many solicitations concurrently and by not allowing sufficient time for bid formulation and delivery of the RHIBs, PWGSC and the DFO structured the above-noted solicitations so as to avoid competition and benefit a single supplier, Zodiac Hurricane Technologies Inc. It also made a number of allegations with respect to each of the above-mentioned solicitations.

As a remedy, Polaris requested that PWGSC consult with qualified suppliers to establish acceptable time frames for solicitation responses and for the construction and delivery of the RHIBs. It also requested that PWGSC limit the current contracts to the supply of those vessels that were needed at that time and reissue fair solicitations allowing for realistic response and construction times for any remaining RHIBs required.

Having examined the evidence presented by the parties and considered the provisions of NAFTA and the AIT, the Tribunal determined that five solicitations were not conducted in accordance with the provisions of the applicable trade agreements and that the complaints in relation thereto were, therefore, valid in part. The remaining solicitation had been cancelled by PWGSC and was no longer at issue. Therefore, the complaint would not be decided on the merits of the case.

FM One Alliance Corp.

PR-2000-063

*Determination:
Complaint valid
(June 27, 2001)*

The Tribunal made a determination with respect to a complaint filed by FM One Alliance Corp. (FM One) concerning the cancellation by Canada Post Corporation (CPC) of a Request for Proposal (RFP) for the provision of facility management services, the proposed renewal of a Property Management Agreement with Brookfield Lepage Johnson Controls Facility Management Services (BLJC) and the proposed renewal of a Property Management Agreement with Profac Facilities Management Services Inc. (Profac).

FM One alleged that, contrary to Article 1001(4) of NAFTA, the proposed “renewals” had been structured to avoid the obligations of Chapter Ten of NAFTA. It also alleged that, contrary to Articles 1008(2)(a) and (b) of NAFTA, CPC’s actions leading to the proposed procurements failed to provide all suppliers equal access to information with respect to the procurements during the period prior to the issuance of any notice or tender documentation. Furthermore, FM One alleged that CPC had failed to publish an invitation to participate in the proposed procurements, thus violating the provisions of Article 1010 of NAFTA. In addition, it alleged that CPC had engaged in unjustified limited tendering procedures, contrary to the provisions of Article 1016 of NAFTA. Finally, FM One alleged that, in structuring these procurements, CPC had breached the provisions of Article 1015(4)(e) of NAFTA, which requires that option clauses not be used in a manner that circumvents Chapter Ten of NAFTA.

As a remedy, FM One requested that CPC be ordered to postpone the award of the proposed contract renewals to BLJC and ProFac until the Tribunal determined the validity of the complaint. In addition, FM One requested that the Tribunal order CPC to amend the RFP to make it compliant with NAFTA and previous Tribunal determinations and that CPC continue the bidding process with the qualified bidders or issue a new solicitation compliant with NAFTA for the designated contracts. In the alternative, FM One requested compensation for the profit that it had lost as a result of the defective procurements. It also requested compensation for its costs in preparing a response to the RFP and all activities in relation thereto and for the costs of the complaint.

Having examined the evidence presented by the parties and considered the provisions of NAFTA, the Tribunal determined that the procurement was not conducted in accordance with the provisions of NAFTA and that the complaint was therefore valid. It recommended that CPC not proceed with the proposed service agreement renewals and that, instead, a solicitation be issued for the property management services therein. The procurement process for those services was to be completed within six months and conducted in compliance with NAFTA. The Tribunal awarded FM One the reasonable costs that it had incurred in preparing and proceeding with the complaint.

The Tribunal made a determination with respect to a complaint filed by COGNOS Incorporated (COGNOS) concerning a solicitation of PWGSC, on behalf of the Department of Justice, for a balanced scorecard management information system adapted to the Department of Justice and an on-line analytical processing system, including licences, ongoing software support and user training.

**COGNOS
Incorporated**

PR-2001-036

*Determination:
Complaint valid
(February 20, 2002)*

**Hewlett-Packard
(Canada) Ltd.**

*PR-2001-030
and PR-2001-040*

*Determination:
Complaints valid
(February 21, 2002)*

**Judicial Review of
Procurement
Decisions**

COGNOS alleged that the solicitation included restrictive technical specifications and a time frame for the submission of proposals that had the effect of discriminating in favour of a competitor's product.

Having examined the evidence presented by the parties and considered the provisions of the AIT, NAFTA and the AGP, the Tribunal determined that the complaint was valid in part and recommended that PWGSC issue a new solicitation. The Tribunal further awarded COGNOS its reasonable complaint costs.

The Tribunal made a determination with respect to two complaints filed by Hewlett-Packard (Canada) Ltd. (Hewlett-Packard) concerning a procurement of PWGSC, on behalf of the Department of Human Resources Development (HRDC), for the development and implementation of a consolidation plan for UNIX services and the establishment of a means of acquiring services (including professional services), equipment and software, as and when required.

Hewlett-Packard alleged that PWGSC improperly evaluated a submission from another bidder as being compliant. It also alleged that PWGSC improperly destroyed documents relating to the evaluation of proposals, contrary to the provisions of NAFTA.

Having examined the evidence presented by the parties and considered the provisions of the AIT and NAFTA, the Tribunal determined that the complaints were valid. It concluded that the bids were not correctly evaluated and recommended that the existing contract be terminated and that PWGSC and HRDC issue a new solicitation. Further, the Tribunal found that PWGSC and HRDC breached the provisions of NAFTA by destroying the evaluators' worksheets and recommended that PWGSC establish procedures designed to ensure that complete documentation be maintained for each procurement. The Tribunal awarded Hewlett-Packard its reasonable costs.

Table 2 lists the procurement decisions that were appealed to or decided by the Federal Court of Canada during the fiscal year.

TABLE 1

Disposition of Procurement Complaints Between April 1, 2001, and March 31, 2002

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2000-018R	X-Wave Solutions Inc.	June 28, 2000	Remitted back to Tribunal
PR-2000-042	Spallumcheen Band	December 13, 2000	Decision rendered on April 26, 2001 Complaint not valid
PR-2000-044	Polaris Inflatable Boats (Canada) Ltd.	December 15, 2000	Decision rendered on May 14, 2001 Complaint valid in part
PR-2000-049	Polaris Inflatable Boats (Canada) Ltd.	December 15, 2000	Decision rendered on May 14, 2001 Complaint valid in part
PR-2000-050	Polaris Inflatable Boats (Canada) Ltd.	December 15, 2000	Decision rendered on May 14, 2001 Complaint valid in part
PR-2000-051	Polaris Inflatable Boats (Canada) Ltd.	December 15, 2000	Decision rendered on May 14, 2001 Complaint valid in part
PR-2000-052	Polaris Inflatable Boats (Canada) Ltd.	December 15, 2000	Decision rendered on May 14, 2001 Complaint valid in part
PR-2000-053	Polaris Inflatable Boats (Canada) Ltd.	January 4, 2001	Decision rendered on May 14, 2001 Complaint valid in part
PR-2000-059	P&L Communications Inc.	February 8, 2001	Decision rendered on May 30, 2001 Complaint valid
PR-2000-060	Foundry Networks Inc.	February 8, 2001	Decision rendered on May 23, 2001 Complaint valid
PR-2000-063	FM One Alliance Corp.	February 12, 2001	Decision rendered on June 27, 2001 Complaint valid
PR-2000-064	Wescam Inc.	February 12, 2001	Decision rendered on May 7, 2001 Complaint valid
PR-2000-065	Cifelli Systems Corporation	February 16, 2001	Decision rendered on June 21, 2001 Complaint valid
PR-2000-067	Foundry Networks Inc.	February 19, 2001	Decision rendered on June 4, 2001 Complaint not valid
PR-2000-068	Cifelli Systems Corporation	March 1, 2001	Complaint withdrawn
PR-2000-071	TAB Canada	March 5, 2001	Decision rendered on July 18, 2001 Complaint valid in part
PR-2000-072	The Baxter Group Inc.	March 7, 2001	Complaint withdrawn
PR-2000-073	P&L Communications Inc.	March 14, 2001	Decision rendered on July 24, 2001 Complaint valid in part
PR-2000-074	M.D. Charlton Co. Ltd.	March 16, 2001	Complaint withdrawn
PR-2000-075	M.D. Charlton Co. Ltd.	March 16, 2001	Complaint withdrawn
PR-2000-077	Volvo Motor Graders Ltd.	March 23, 2001	Decision rendered on August 1, 2001 Complaint valid

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2000-078	Eurodata Support Services Inc.	March 29, 2001	Decision rendered on July 30, 2001 Complaint not valid
PR-2001-001	Light Tree Technologies, Inc.	April 10, 2001	Complaint withdrawn
PR-2001-002	Light Tree Technologies, Inc.	April 10, 2001	Complaint withdrawn
PR-2001-003	Light Tree Technologies, Inc.	April 10, 2001	Complaint withdrawn
PR-2001-004	OdySoft	April 9, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-005	Light Tree Technologies, Inc.	April 10, 2001	Not accepted for inquiry, no complaint received
PR-2001-006	Diversicomm Data Systems Inc.	April 19, 2001	Decision rendered on August 30, 2001 Complaint not valid
PR-2001-007	Bell Nexxia	April 6, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-008	Foundry Networks Inc.	April 17, 2001	Decisions rendered on August 30, 2001 Complaint not valid
PR-2001-009	Foundry Networks Inc.	April 17, 2001	Complaint dismissed, late filing
PR-2001-010	D'Arcy Moving & Storage	May 14, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-011	COGNOS Incorporated	May 15, 2001	Not accepted for inquiry, premature complaint
PR-2001-012	Foundry Networks Inc.	May 16, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-013	Lockheed Canada	May 25, 2001	Not accepted for inquiry, premature complaint
PR-2001-014	Fjord Tech Industries Inc.	May 30, 2001	Not accepted for inquiry, late filing
PR-2001-015	Resource Futures International	May 30, 2001	Not accepted for inquiry, late filing
PR-2001-016	G.J. Cahill and Company (1979) Limited	May 31, 2001	Not accepted for inquiry, not a designated contract
PR-2001-017	COGNOS Incorporated	July 6, 2001	Not accepted for inquiry, late filing
PR-2001-018	Corel Corporation	July 18, 2001	Complaint withdrawn
PR-2001-019	Marathon Management Company	July 19, 2001	Complaint dismissed, does not relate to a designated contract
PR-2001-020	Ajilon Canada	July 16, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-021	Marathon Management Company	July 23, 2001	Complaint withdrawn
PR-2001-022	Corporate Express	July 20, 2001	Not accepted for inquiry, no jurisdiction

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2001-023	Bell Nexxia	August 8, 2001	Decision rendered on October 25, 2001 Complaint not valid
PR-2001-024	Astaris	August 7, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-025	Empowered Networks Inc.	August 23, 2001	Decision rendered on December 27, 2001 Complaint not valid
PR-2001-026	McNally Construction Inc.	September 17, 2001	Decision rendered on December 6, 2001 Complaint valid in part
PR-2001-027	PTI Services	September 28, 2001	Decision rendered on November 28, 2001 Complaint valid
PR-2001-028	Compugen	September 21, 2001	Not accepted for inquiry, late filing
PR-2001-029	John Chandioux experts-conseils inc.	October 1, 2001	Decision rendered on February 19, 2002 Complaint valid in part
PR-2001-030	Hewlett-Packard (Canada) Ltd.	October 9, 2001	Decision rendered on February 21, 2002 Complaint valid
PR-2001-031	C.F. Industrial Products Inc.	October 11, 2001	Decision rendered on January 9, 2002 Complaint not valid
PR-2001-032	John Chandioux experts-conseils inc.	October 17, 2001	Decision rendered on February 19, 2002 Complaint valid in part
PR-2001-033	Marathon Management Company	October 11, 2001	Complaint withdrawn
PR-2001-034	Diversicomm Data Systems	October 24, 2001	Decision rendered on January 22, 2002 Complaint not valid
PR-2001-035	Preston Phipps Inc.	October 25, 2001	Decision rendered on January 23, 2002 Complaint valid in part
PR-2001-036	COGNOS Incorporated	October 26, 2001	Decision rendered on February 20, 2002 Complaint valid
PR-2001-037	Foundry Networks Inc.	October 26, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-038	Papp Plastics & Distributing Ltd.	October 31, 2001	Decision rendered on January 31, 2002 Complaint valid in part
PR-2001-039	Cifelli Systems Corporation	November 5, 2001	Not accepted for inquiry, not a potential supplier
PR-2001-040	Hewlett-Packard (Canada) Ltd.	November 15, 2001	Decision rendered on February 21, 2002 Complaint valid
PR-2001-041	Fleetway Inc.	November 29, 2001	Not accepted for inquiry, late filing
PR-2001-042	Seatech Ltd.	November 28, 2001	Not accepted for inquiry, late filing
PR-2001-043	Fleetway Inc.	November 28, 2001	Not accepted for inquiry, not a designated contract

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2001-044	InBusiness Systems Inc.	December 5, 2001	Not accepted for inquiry, complaint premature
PR-2001-045	Transpolar Technology Corporation	December 6, 2001	Not accepted for inquiry, not a designated contract
PR-2001-046	Educom TS Inc.	December 6, 2001	Complaint withdrawn
PR-2001-047	Foundry Networks Inc.	December 12, 2001	Not accepted for inquiry, late filing
PR-2001-048	Foundry Networks Inc.	December 12, 2001	Decision rendered on March 12, 2002 Complaint valid
PR-2001-049	Aviva Solutions Inc.	December 13, 2001	Accepted for inquiry
PR-2001-050	Papp Plastics & Distributing Ltd.	December 14, 2001	Not accepted for inquiry, late filing
PR-2001-051	DRS Technologies Inc.	December 18, 2001	Accepted for inquiry
PR-2001-052	CMC Electronics Inc.	December 18, 2001	Accepted for inquiry
PR-2001-053	Fritz Starber Inc.	December 19, 2001	Not accepted for inquiry, not a designated contract
PR-2001-054	Foundry Networks Inc.	December 31, 2001	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-055	Foundry Networks Inc.	January 3, 2002	Not accepted for inquiry, late filing
PR-2001-056	ACMG Management Inc.	January 25, 2002	Accepted for inquiry
PR-2001-057	Georgian College of Applied Arts and Technology	January 23, 2002	Not accepted for inquiry, complaint premature
PR-2001-058	Installation Globale Normand Morin & Fils Inc.	February 1, 2002	Not accepted for inquiry, late filing
PR-2001-059	MaxSys Professionals & Solutions Inc.	February 14, 2002	Accepted for inquiry
PR-2001-060	Corel Corporation	February 15, 2002	Accepted for inquiry
PR-2001-061	Foundry Networks Inc.	February 15, 2002	Accepted for inquiry
PR-2001-062	Foundry Networks Inc.	February 22, 2002	Accepted for inquiry
PR-2001-063	Service Star Building Cleaning Inc.	February 26, 2002	Accepted for inquiry
PR-2001-064	Amdahl Canada Limited	February 25, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-065	BASE Controls Limited	February 26, 2002	Not accepted for inquiry, late filing
PR-2001-066	Papp Plastics & Distributing Ltd.	March 5, 2002	Accepted for inquiry
PR-2001-067	Georgian College of Applied Arts and Technology	March 6, 2002	Accepted for inquiry
PR-2001-068	Bennett Environmental Inc.	March 12, 2002	Accepted for inquiry

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2002-069	Macadamian Technologies Inc.	March 1, 2002	Accepted for inquiry
PR-2001-070	The Whitewind Company, Inc.	March 6, 2002	Not accepted for inquiry, no jurisdiction
PR-2001-071	Équipement Industriel Champion Inc.	March 15, 2002	Accepted for inquiry
PR-2001-072	MIL Systems	March 8, 2002	Not accepted for inquiry, no jurisdiction
PR-2001-073	Hike Metal Products Ltd.	March 12, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-074	GMA Cover Corp.	March 26, 2002	Accepted for inquiry
PR-2001-075	Cleeve Technology Incorporated	March 19, 2002	Not accepted for inquiry, late filing
PR-2001-076	DASCO Equipment Inc.	March 21, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2001-077	FLIR Systems Ltd.	March 27, 2002	Being filed

TABLE 2

Procurement Cases Before the Federal Court of Canada Between April 1, 2001, and March 31, 2002

File No.	Complainant	Applicant	File No./Status
PR-99-051	Ace/Clear Defense Inc.	National Gallery of Canada	A—481—00 Application dismissed
PR-2000-018	X-Wave Solutions Inc.	X-Wave Solutions Inc.	A—668—00 Application allowed in part
PR-2000-017 and PR-2000-035	Telus Integrated Communications Inc.	Bell Nexxia Inc.	A—747—00 Application allowed
PR-2000-019	Telus Integrated Communications Inc.	Telus Integrated Communications Inc.	T—1297—00 Application dismissed
PR-2000-039	Seimens Westinghouse Inc.	Seimens Westinghouse Inc.	A—203—01 Application dismissed
PR-2000-044 and PR-2000-049 to PR-2000-053	Polaris Inflatable Boats (Canada) Ltd.	Attorney General of Canada	A—358—01 Application allowed
PR-2000-063	FM One Alliance Corp.	Profac Facilities Management Services Inc.	A—436—01 and A—444—01 Applications dismissed
PR-2000-063	FM One Alliance Corp.	FM One Alliance Corp.	T—1563—01
PR-2001-007	BCE Nexxia Inc.	BCE Nexxia Inc.	A—287—01 Application dismissed
PR-2001-026	McNally Construction Inc.	Attorney General of Canada	A—007—02
PR-2001-029	John Chandioux experts-conseils inc.	John Chandioux experts-conseils inc.	A—050—029
PR-2001-030 and PR-2001-040	Hewlett-Packard (Canada) Ltd.	IBM Canada Ltd.	A—172—02 Discontinued
PR-2001-030 and PR-2001-040	Hewlett-Packard (Canada) Ltd.	IBM Canada Ltd.	A—173—02
PR-2001-030 and PR-2001-040	Hewlett-Packard (Canada) Ltd.	Attorney General of Canada	A—178—02
PR-2001-053	Fritz Starber Inc.	Fritz Starber Inc.	A—048—02

TRIBUNAL PUBLICATIONS ISSUED DURING THE FISCAL YEAR

May 2001	Annual Report for the Fiscal Year Ending March 31, 2001
June 2001	Bulletin - Vol. 13 No. 1* Procurement Compensation Guidelines - Revised*
September 2001	Bulletin - Vol. 13 No. 2* Information Package: Filing a Procurement Complaint* Practice Notice: Government Procurement - Complaints by Potential Suppliers - CITT Inquiries
December 2001	Bulletin - Vol. 13 No. 3*
January 2002	Textile Reference: Annual Status Report - October 1, 2000, to September 30, 2001
March 2002	Bulletin - Vol. 13 No. 4*

*Available only on the Tribunal's Web site

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