



Civil Aviation Tribunal of Canada

Performance Report

For the period ending
March 31, 1999

Canada

Improved Reporting to Parliament Pilot Document

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

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Foreword

On April 24, 1997, the House of Commons passed a motion dividing on a pilot basis what was known as the annual *Part III of the Estimates* document for each department or agency into two documents, a *Report on Plans and Priorities* and a *Departmental Performance Report*.

This initiative is intended to fulfil the government's commitments to improve the expenditure management information provided to Parliament. This involves sharpening the focus on results, increasing the transparency of information and modernizing its preparation.

This year, the Fall Performance Package is comprised of 82 Departmental Performance Reports and the government's report *Managing for Results - Volumes 1 and 2*.

This *Departmental Performance Report*, covering the period ending March 31, 1999, provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the department's pilot *Report on Plans and Priorities* for 1998-99. The key result commitments for all departments and agencies are also included in Volume 2 of *Managing for Results*.

Results-based management emphasizes specifying expected program results, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and reporting on achievements in a balanced manner. Accounting and managing for results involve sustained work across government.

The government continues to refine and develop both managing for and reporting of results. The refinement comes from acquired experience as users make their information needs more precisely known. The performance reports and their use will continue to be monitored to make sure that they respond to Parliament's ongoing and evolving needs.

This report is accessible electronically from the Treasury Board Secretariat Internet site:
<http://www.tbs-sct.gc.ca/tb/key.html>

Comments or questions can be directed to the TBS Internet site or to:

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Civil Aviation Tribunal

Departmental Performance Report **For the period ending March 31, 1999**

The Honourable David Collenette, M.P.

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Section I: Message

The Civil Aviation Tribunal, an independent quasi-judicial body possessing aeronautics expertise, is integral to the enforcement of aviation safety, airworthiness, and aviation security measures in Canada. It fulfils the essential role of providing an independent review of ministerial enforcement and licensing actions taken against holders of Canadian aviation documents under the *Aeronautics Act*.

The Tribunal conducts itself in an open, impartial manner consistent with procedural fairness and the rules of natural justice. It adjudicates matters that have a serious impact on the livelihood and operations of the aviation community. Given its structure and process for conducting hearings, the Tribunal is readily accessible to that community.

The knowledge and experience in aeronautics possessed by Tribunal members enhances their independence by equipping them to understand and assess the validity of the reasons for enforcement and licensing actions. It also increases the confidence which Transport Canada and Canadian aviation document holders place in the decisions of the Tribunal.

It is important to take into account the gains in efficiency that have been achieved simply as a result of the Tribunal and the parties appearing before it adjusting to the aviation safety enforcement and licensing regime implemented in the 1986 *Aeronautics Act* amendments. Parties appearing before it, including Transport Canada and organizations representing Canadian aviation document holders, have now acquired levels of experience and judgment which contribute greatly to achieving efficiencies in the hearing process, procedurally fair results and legitimacy for the overall enforcement process. This applies to all types of hearings.

Future Plans

The *Canada Transportation Act* was amended and proclaimed on July 1, 1996. Regulations yet to be passed will enlarge the Civil Aviation Tribunal's mandate to include additional *Designated Provisions Regulations* cases in the subject areas.

Faye Smith
Chairperson

Section II: Departmental Overview

Mandate, Mission and Vision

The mandate of the Civil Aviation Tribunal is provided for by Part IV of the *Aeronautics Act*. The Tribunal's principal mandate is to hold review and appeal hearings at the request of interested parties with respect to certain administrative actions taken by the Minister of Transport.

The Civil Aviation Tribunal is a quasi-judicial body established in accordance with the amended *Aeronautics Act* (Bill C-36) which received Royal Assent on June 28th, 1985 and was proclaimed by Order in Council on June 1st, 1986.

The development of the legislation was prompted by recommendations resulting from the *Inquiry into Aviation Safety in Canada*, conducted by the Honourable Mr. Justice Charles L. Dubin.

The Minister's enforcement and licensing decisions may include the imposition of monetary penalties or the suspension, cancellation, or refusal to renew a Canadian aviation document on medical or other grounds. The person or corporation affected is referred to as the document holder.

These decisions are reviewed through a two-level hearing process—review and appeal. All hearings are to be held expeditiously and informally, in accordance with the rules of fairness and natural justice. At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

The Tribunal's mission is to do justice and be seen to do justice in all reviews and appeals and to resolve disputes according to the *Rules Governing the Practice and Procedure in Connection with Matters Dealt with by the Civil Aviation Tribunal* in all cases in a fair, independent and timely manner.

Operating Environment

The Civil Aviation Tribunal reports to Parliament through the Minister of Transport. Its clients are the aviation community and Transport Canada. The Tribunal serves the Canadian flying public by contributing to a safe and efficient aviation enforcement and licensing system.

The Civil Aviation Tribunal represents the only forum for ensuring that Canadian aviation document holders have access to an independent assessment governed by considerations of natural justice. Its role does not overlap with, nor is it duplicated by, any other agency, board or commission. It is unique in the transportation sector in that its function is entirely adjudicative.

Objectives

The objective of the program is to provide Canadian aviation document holders with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body.

Strategic Priorities

To process requests from Canadian aviation document holders and hold review and appeal hearings by an independent body.

Challenges

For the 1999–2000 fiscal year the Tribunal faces the difficult task of processing its caseload. The changes in membership in late 1998–1999 and throughout 1999–2000 will require training of new members and refresher training of its existing part-time members.

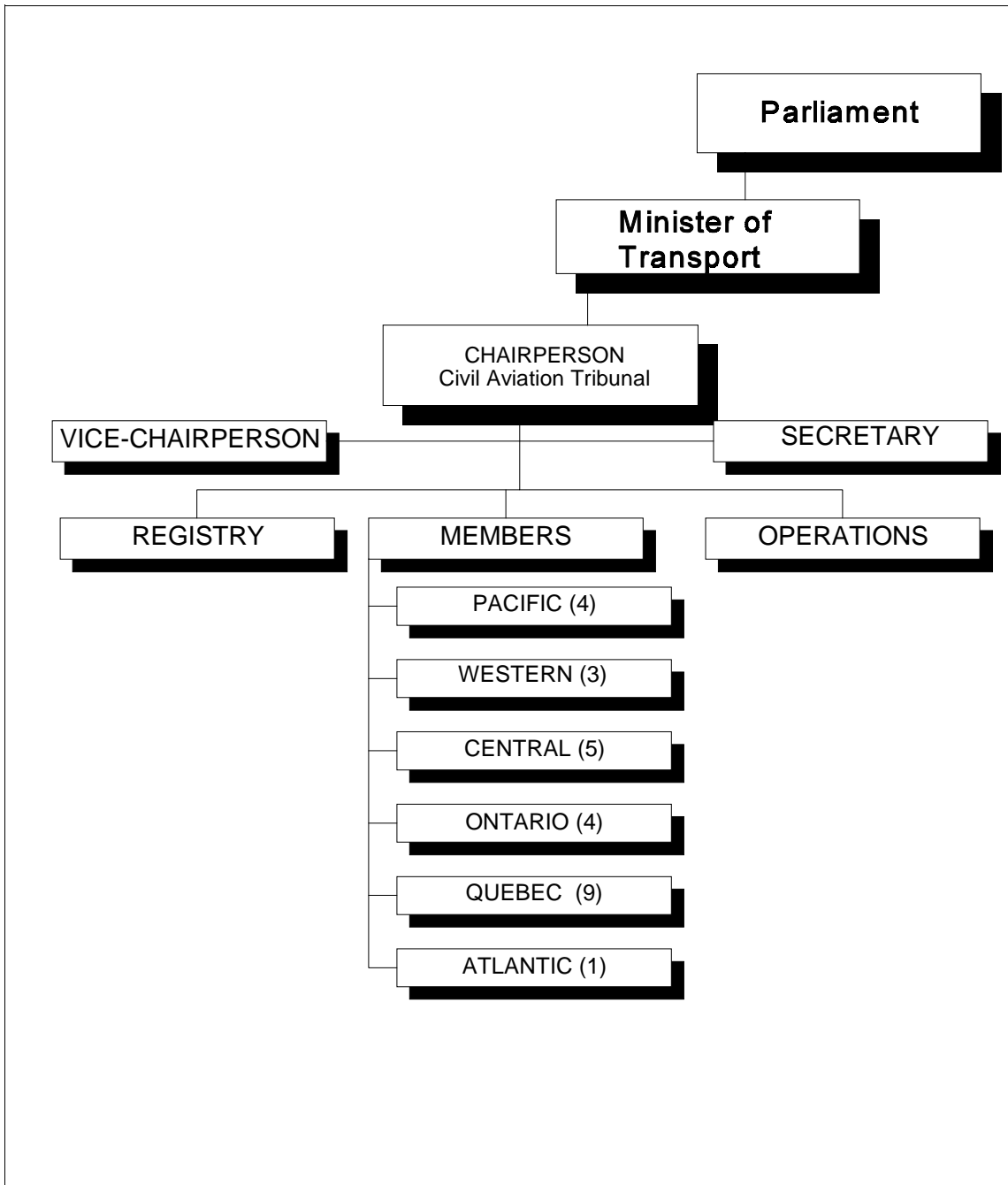
Departmental Organization

The Civil Aviation Tribunal's only business line is to hold review and appeal hearings. The Tribunal represents the only forum for ensuring that Canadian aviation document holders have access to an independent assessment governed by considerations of natural justice.

The office of the Tribunal is located in the National Capital Region. The Civil Aviation Tribunal's Chairperson is also its Chief Executive Officer. The Chairperson, Vice-Chairperson and immediate staff account for eight full-time equivalents. Twenty-six part-time members were in office during 1998–1999. Members are drawn from across Canada and are appointed by Order in Council on the basis of their knowledge and expertise in aeronautics, including aviation medicine.

All members report to the Chairperson. Eight full-time equivalents are utilized by the continuing full-time employees including the Chairperson and Vice-Chairperson. The part-time members are remunerated for the days they serve. They utilize an equivalent of two full-time equivalents.

Figure 1: Organization Chart



Section III: Departmental Performance

Performance Expectations

The Civil Aviation Tribunal continued to provide a system within which review and appeal hearings can be held quickly, fairly and informally. It fulfilled the essential role of providing an independent review of the Minister of Transport's enforcement and licensing actions taken against holders of Canadian aviation documents under the *Aeronautics Act*, thus ensuring a safe and efficient system for the Canadian flying public.

Performance Accomplishments

For 1998–1999 the Tribunal forecasted work on approximately 317 case files with planned spending of \$920,000 and eight FTEs. That forecast represented the same level over the 1997–1998 forecast. The actual case files worked on were 294. A breakdown of cases by categories and regions as well as reviews and appeals held over the past five years are in Figures 7, 8 and 12 on pages 14 and 16.

Presentation of Financial Information

Figure 2: Financial Information

Civil Aviation Tribunal	
Planned Spending	\$ 920,000
<i>Total Authorities</i>	\$ 982,796
Actual Expenditures	\$ 913,144

The variance between total authorities and actuals for 1998–1999 is due to delays in the appointment of part-time members. The Tribunal was awaiting appointments of at least nine part-time members as a result of vacancies in its membership due to the expiration of Governor in Council part-time appointments. The financial resources were to be utilized in the training of its new members.

In 1998–1999 the Civil Aviation Tribunal continued to provide the Canadian aviation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body thus contributing to a safe and efficient aviation enforcement and licensing system for the Canadian flying public.

Although the Tribunal has an overall decrease of 23 case files over 1997–1998, the Civil Aviation Tribunal registered 207 new requests for reviews and appeals from the aviation community. This represents an increase of 56 new cases or 27% over 1997–1998. The reduction of total cases is due mainly to the efficient disposition of files carried over from the previous fiscal year.

These requests are broken down into the following categories:

- Pilot medical
- Pilot suspension
- Pilot unpaid fine
- Pilot competence
- A.T.C.** medical
- A.T.C. suspension
- A.T.C. unpaid fine
- Personnel security unpaid fine
- Air Carrier suspension
- Air Carrier unpaid fine
- Air Carrier Security unpaid fine
- A.M.E.* suspension
- A.M.E. unpaid fine
- Certificate of Airworthiness suspension
- Aircraft Owner unpaid fine

* A.M.E. (aircraft maintenance engineer)
 ** A.T.C. (air traffic controller)

In addition to the new cases registered in this reporting period, 87 cases were carried over from the previous reporting period, bringing the total caseload to 294. This represents a decrease of 23 cases over 1997–1998.

The 87 cases that were carried from 1997–1998 to this reporting period are cases where action has been taken.

Figure 3:

**Status
 of Cases**

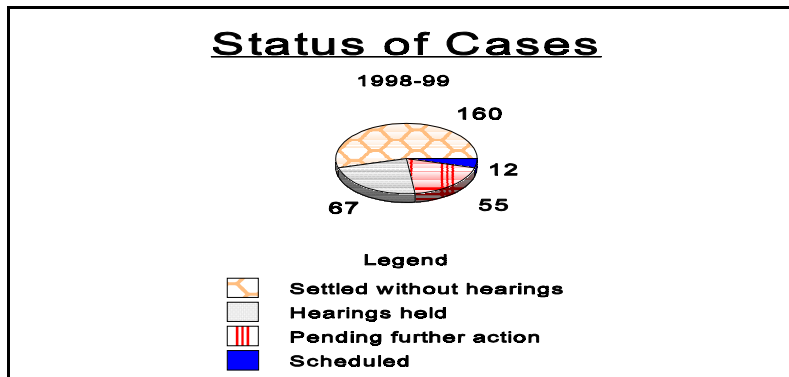
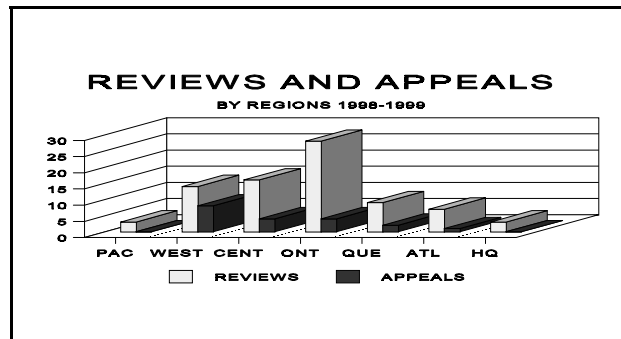


Figure 3 shows a breakdown of the 294 cases handled by the Tribunal. It reveals that 160 cases were concluded without a hearing, and 67 cases proceeded to a hearing of which 8 were awaiting decisions at the 1998–1999 year end. At the end of the 12-month reporting period, 55 cases were pending further action of which 12 have been scheduled for the 1999–2000 fiscal year.

Of the 67 cases that proceeded to a hearing, 54 or 81% were first level reviews, and 13 or 19% were second level appeals.

Figure 4: Reviews and Appeals

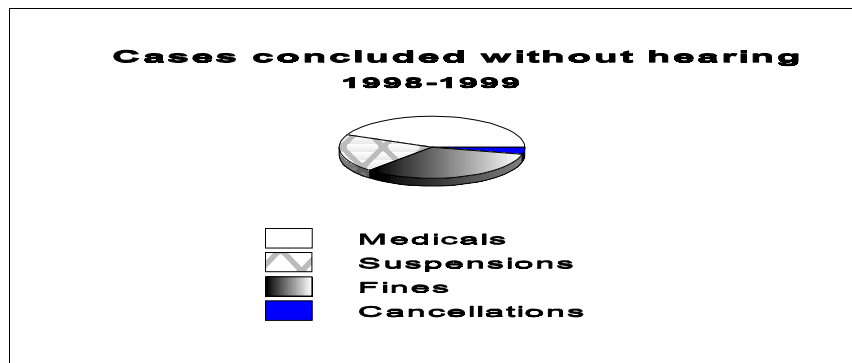


The 160 cases concluded without a hearing were resolved in a number of ways:

- pre-hearing conference
- document holder paid fine before hearing
- document holder’s licence reinstated before hearing
- request for hearing withdrawn by document holder
- allegation withdrawn by Minister
- agreement reached between parties

It should be noted that many of the 160 cases concluded without a hearing were requests registered with the Tribunal and concluded shortly before the hearing was to take place, which means that all the work that leads up to the hearing was completed. In many cases the Tribunal was able to have the parties reach an agreement by way of pre-hearing conferences. In other cases, Transport Canada or the document holder withdrew their application. The categories of Cases Concluded Without a Hearing are shown in Figure 5 below.

Figure 5: Cases Concluded Without Hearing



The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal and to disclose and exchange documents. This reduces the length of hearings and avoids last-minute adjournments necessitated by late disclosure.

Such conferences have also been particularly effective in settling licence suspensions and cancellations on medical grounds without the necessity of a hearing. Instead of automatically assigning hearing dates, the Tribunal staff contacts parties to schedule mutually agreed dates and locations. This avoids the expense of cancelling booked hearing rooms and travel arrangements when adjournments are sought to change an imposed hearing date.

Figure 6: Key Results Commitments

Civil Aviation Tribunal		
To provide Canadians with:	To be demonstrated by:	Reported in:
independent review of enforcement and licensing decisions taken by the Minister of Transport under the <i>Aeronautics Act</i>	<ul style="list-style-type: none"> hearings that are held expeditiously, fairly and informally 	DPR Sec III P.13. Effectiveness
	<ul style="list-style-type: none"> timely disposition of review and appeal hearings within service standards 	DPR Sec III P.13. Annual Report P.19 Civil Aviation Tribunal Rules
	<ul style="list-style-type: none"> hearings conducted in accordance with the rules of fairness and natural justice 	DPR Sec II P.5.
	<ul style="list-style-type: none"> the use of pre-hearing conferences to streamline and expedite the hearing process 	DPR Sec III P.12.
	<ul style="list-style-type: none"> quality and consistency of decision making 	DPR P.5.
	<ul style="list-style-type: none"> a level of satisfaction by the aviation community 	DPR Sec III Per. Accomplishments Web Site: www.cat-tac.gc.ca Guide to Tribunal Hearings

Effectiveness

The program's effectiveness can be measured by its ability to provide the aviation community with the opportunity to have Ministerial decisions reviewed fairly, equitably and within a reasonable period of time. The Tribunal strongly encourages its members to provide their determinations quickly. Although there is no statutory requirement for it to do so, the Tribunal issues written reasons for all its determinations. This allows Transport Canada and Canadian aviation document holders to better understand the outcome of the matter and, where applicable, to make a more enlightened decision as to the exercise of their right of appeal. The average lapsed time between the conclusion of a review hearing and the issuance of a determination is 34 days and 48 days for an appeal. This represents an improvement in efficiency from 1992–1993 as the average lapsed time between the conclusion of a review hearing and the issuance of a determination was 120 days and 90 days for an appeal. This brings the hearing process to a timely conclusion for both parties appearing before the Tribunal.

In conducting its reviews of enforcement and licensing decisions of the Minister of Transport, the Civil Aviation Tribunal provides a public interest program that is unique to civil aviation in Canada. Tribunal hearings are readily accessible to the lay person without the attendant legal complexities and case backlogs which were visited upon the court system that prevailed prior to the creation of the Civil Aviation Tribunal. The Tribunal's efficiencies provide visible validation and confirmation of Canada's civil aviation safety system. Moreover, the Civil Aviation Tribunal process is able to quickly identify aviation concerns of a technical or legislative nature that will necessitate amendment to aviation regulations to benefit all Canadians through the enhancement and maintenance of aviation safety in Canada.

Indicators in Figures 7 and 8 are actual numbers of cases. Total cases by category are not sufficient to determine all financial implications by simply forecasting the number of applications received by type of infraction and the manner in which they are resolved. However, an estimated cost average for review and appeal hearings for the past three fiscal years is presented in Figure 9 page 14.

Figure 7: Total Cases by Category

	Pac.	West.	Cent.	Ont.	Que.	Atl.	Hq.	Total	%
Medicals	12	8	11	32	26	14	0	103	35
Suspensions	2	7	6	10	5	5	2	37	13
Fines	11	24	29	17	42	13	1	137	47
Cancellations	0	1	1	0	5	0	0	7	2
PPC	3	0	0	6	0	0	1	10	3
Totals	28	40	47	65	78	32	4	294	100
%	10	14	16	22	26	11	1	100	

Figure 8: Reviews and Appeals Concluded with a Hearing

	Pac.	West.	Cent.	Ont.	Que.	Atl.	Hq.	Total	%
Reviews	5	5	10	6	21	7	0	54	81
Appeals	0	3	4	1	4	1	0	13	19
Totals	5	8	14	7	25	8	0	67	100

Figure 9: Average Costs for Reviews and Appeals

<i>(Dollars)</i>	1998–1999	1997–1998	1996–1997
Reviews	\$2588.00	\$2,843.00	\$2,810.00
Appeals	\$5740.00	\$6,064.00	\$5,811.00
Reviews and Appeals Held	67	99	86

When comparing the types of hearing actions, there are significant variances in resources spent due to uncontrollable factors such as location, travel, time spent on hearings, remuneration, interpreters, preparation, decision writing, costs for court reporting, transcripts, facilities and other support personnel. The average costs fluctuate each fiscal year as they are determined by the number of reviews.

Figures 10, 11 and 12 pages 15 and 16 show the fluctuation of reviews and appeals held by fiscal year as well as total applications received at the Tribunal.

Figure 10: New Files per Fiscal Year for Past 13 Years

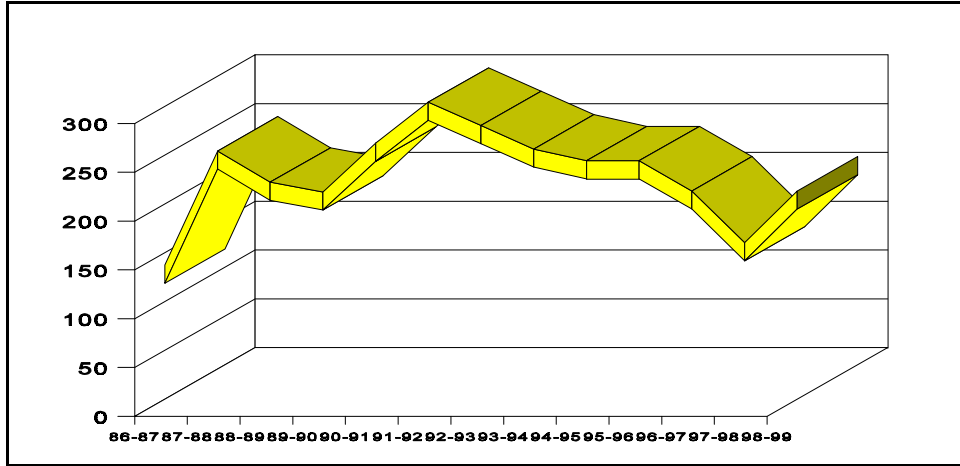
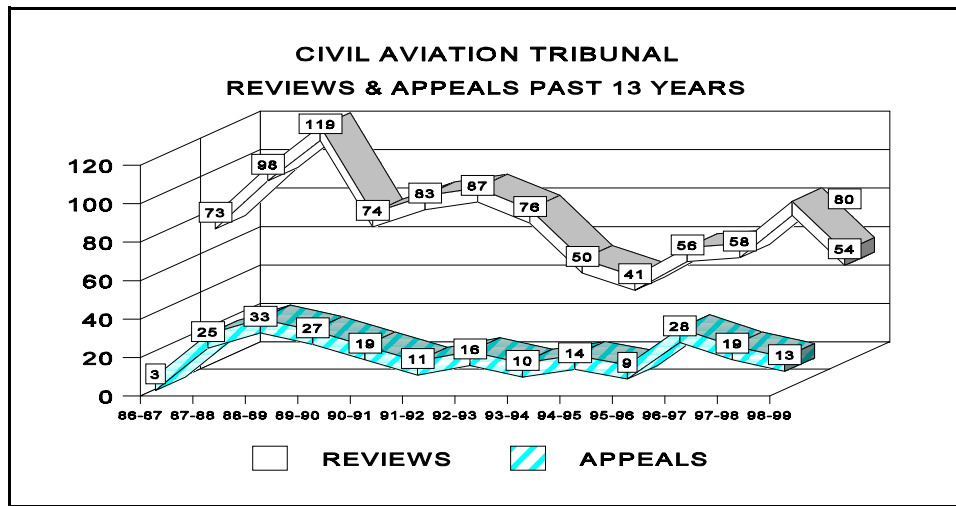


Figure 11: Reviews and Appeals Held During Past 13 Years



Although the total number of case files worked on during 1998–1999 was lower than 1997–1998, the new case files registered during the 1998–1999 fiscal year represent an increase of 27% over 1997–1998.

Figure 12: Reviews and Appeals Held Over Past Five Years

	1994–1995	1995–1996	1996–1997	1997–1998	1998–1999
Reviews	46	56	58	80	54
Appeals	15	9	28	19	13
Totals	61	65	86	99	67
% Increase/Decrease	–	6	24	13	-32

External Factors Influencing the Program

Aviation Community: There are approximately 73,000 licensed aviation personnel in Canada and approximately 30,000 registered aircraft. Because of this volume, the number of infractions under the *Aeronautics Act* should rise slightly or at least remain unchanged.

Government Department: The Enforcement and Licensing personnel at Transport Canada can, under the *Aeronautics Act*, suspend, cancel or refuse to renew a Canadian aviation document or impose a monetary penalty. The level of enforcement is entirely controlled by Transport Canada but impacts on the program. The program is also affected by the department’s rewrite of its aviation regulations including the designation of a large number of offences under the *Designated Provisions Regulations* which were formerly adjudicated in the court system.

International Arena: Consistent and fair determinations of Civil Aviation Tribunal Members serve to uphold and reinforce Canada’s commitment and implementation of International Civil Aviation Standards. Tribunal hearings involving international air carriers are also a level of activity that is controlled by Transport Canada’s regulatory program.

Section IV: Consolidated Reporting

Year 2000 Readiness

The Tribunal began work on the year 2000 (Y2K) date issue early in 1997 by analysing its total computerized system, both hardware and software. Computer hardware was upgraded and configured using Tribunal staff as much as possible to minimize costs.

The work on software implications resulted in modifications to the case management tracking system and the correspondence control. Final testing was performed in mid-March 1999 by the Tribunal's computer consultants.

Financial, material management, contracting and property management programs and data holdings software were also upgraded and tested and proved to be Y2K compliant. Near the end of March the total network system was tested and found to be compliant with all critical dates.

As of July 1999, the Tribunal had completed the analysis, upgrade and testing of its whole computerized system, both hardware and software. The computer hardware and software along with any associated systems are being monitored on a continuous basis with changes and additions being implemented as required.

The Tribunal has no dependencies on other systems for its daily operations. A risk analysis shows that should the Tribunal's computer system fail, it would be a substantial inconvenience to the staff, but would cause no loss of service to its clients.

In the event of any computer or facilities systems failure, a parallel backup system is in place that covers

- Server hardware, cabling, and stations
- Full data and software backup
- Consultants
- Hardware and software suppliers
- Manual system and controls

Off-site capabilities are in place and there should be no disruption to its clients if the Tribunal premises were to be unaccessible.

All areas of concern have been addressed and it is our belief that the Civil Aviation Tribunal is ready for the rollover to January 1, 2000.

Section V: Financial Performance

Financial Performance Overview

Planned spending for the Tribunal was \$920,000. During the year, supplementary estimates increased the total authorities to \$982,796. The actual expenditures were \$913,144. The increase was for newly signed collective agreements and training of anticipated appointments of part-time members. The personnel costs accounted for 60% of actual expenditures and 40% for goods and services. The variance between total authorities and actuals was due to delays in the appointment of part-time members as explained in figure 2, page 9.

The appointments came in late 1998–1999 and early 1999–2000. The result was an under utilization of resources for training and remuneration.

Financial Summary Tables

The following financial tables are applicable to the Civil Aviation Tribunal:

Financial Table 1: Summary of Voted Appropriations

Financial Table 2: Comparison of Total Planned to Actual Spending

Financial Table 3: Historical Comparison of Total Planned Spending to Actual Spending

Financial Table 1

Summary of Voted Appropriations Authorities for 1998–1999

Financial Requirements by Authority (thousands of dollars)

Vote	1998–1999			
	Planned Spending	Total Authorities	Actual Spending	
Civil Aviation Tribunal				
40	Program expenditures	819.0	881.7	812.1
(S)	Contributions to employee benefit plans	101.0	101.0	101.0
Total Program		920.0	982.7	913.1

Financial Table 2

Comparison of Total Planned Spending to Actual Spending

Departmental Planned versus Actual Spending (thousands of dollars)			
Business Line	1998-1999		
	Planned	Total Authorities	Actual
FTEs	8	8	7
Operating	920.0	982.7	913.1
Subtotal: Gross Voted Expenditures	920.0	982.7	913.1
Statutory Grants and Contributions	—	—	—
Total Gross Expenditures	920.0	982.7	913.1
Less:			
Revenue Credited to the Vote	—	—	—
Total Net Expenditures	920.0	982.7	913.1
Other Revenues and Expenditures			
Cost of services provided by other departments	159.5	159.5	159.5
Net Cost of the Program	1079.5	1142.2	1072.6

Financial Table 3

Historical Comparison of Departmental Planned Versus Actual Spending (\$ thousands)

	1998-1999				
	Actual 1996-1997	Actual 1997-1998	Planned Spending	Total Authorities	Actual Spending
Civil Aviation Tribunal	878.0	900.2	920.0	982.7	913.1
Total	878.0	900.2	920.0	982.7	913.1

Section VI: Other Information

A. Contacts for Further Information

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Internet Web Site: www.cat-tac.gc.ca

Faye Smith – Chairperson
Allister Ogilvie – Vice-Chairperson
Jean Pierre Thibault – Executive Services Manager
Marie Desjardins – Administrative assistant
Mary Cannon – Acting Registrar (Ontario, Prairie & Northern and Pacific Regions)
Susanne Forgues – Acting Registrar (Headquarters, Quebec and Atlantic Regions)
Monique Godmaire – Acting Deputy Registrar

B. Legislation Administered by the Civil Aviation Tribunal

Aeronautics Act (Bill C-36) June 1, 1986

C. Statutory Annual and other Departmental Reports

Main Estimates 1998–1999
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