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# **ANNUAL REPORT**

**FOR THE FISCAL YEAR ENDING  
MARCH 31, 2005**

**Canadian  
International  
Trade Tribunal**

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Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

June 22, 2005

The Honourable Ralph E. Goodale, P.C., M.P.  
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 Tribunal's annual report for the fiscal year ending March 31, 2005.

Yours sincerely,

Pierre Gosselin  
Chairman

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# CHAPTER I

## HIGHLIGHTS

### Members

On February 1, 2005, Ms. Ellen Fry was re-appointed to the position of Member of the Canadian International Trade Tribunal (the Tribunal). Prior to joining the Tribunal, she was responsible for national management projects at the Client Driven Services Secretariat of the Department of Justice. Ms. Fry previously held the position of Director of Legal Services at the Department of Industry and the Department of the Environment where she managed legal work on trade issues. Ms. Fry also had experience working in a private law firm.

### Senior Staff

On June 21, 2004, Ms. H el ene Nadeau was appointed Secretary of the Tribunal, replacing Mr. Michel Granger who retired from the Public Service after a 14-year career with the Tribunal. The Tribunal would like to recognize Mr. Granger's important contribution to the work of the Tribunal. As Secretary, he brought the Tribunal into the 21st century through the application of modern technology, most notably, the use of an electronic administrative record, the relevant portions of which would be called up on individual computer monitors for Tribunal members, counsel and witnesses to see during the course of a hearing. These initiatives have expedited Tribunal hearings and other phases of its inquiries.

On May 10, 2004, Ms. Julia Ginley was appointed Director of Management Services. Ms. Ginley has spent 26 years in the Federal Public Service and brings with her a variety of experience, including information management, information technology, audit, evaluation, transition planning, industry development and anti-dumping investigation.

### Dumping and Subsidizing Inquiries and Reviews

In this fiscal year, the Tribunal issued three preliminary determinations of injury under subsection 37.1(1) of the *Special Import Measures Act (SIMA)*. The Tribunal also issued five findings following injury inquiries under section 42. The inquiry concerning *Outdoor Barbeques* was terminated following a determination of zero dumping margin by the Canada Border Services Agency (CBSA). The Tribunal issued five orders following reviews under section 76.03. The Tribunal issued three orders following interim reviews pursuant to section 76.01. The Tribunal initiated a public interest inquiry following an injury finding on stainless steel wire in an inquiry under section 42 and reported to the

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**Procurement  
Review**

Minister of Finance. At the end of the year, one inquiry and seven expiry reviews were in progress, and three requests for interim reviews were under consideration.

This fiscal year was one of the busiest years in the area of dumping and subsidizing inquiries and reviews, in terms of the number and complexity of cases. In *Fasteners* (NQ-2004-005), the Tribunal had to deal with more than 20,000 requests for product exclusions.

The Tribunal received 62 complaints during the fiscal year. The Tribunal issued 19 written determinations of its findings and recommendations. Ten of these determinations related to cases that were in progress at the end of fiscal year 2003-2004. One determination was remanded to the Tribunal.

In 2004-2005, the Department of Public Works and Government Services (PWGSC) alone issued approximately 15,403 contracts valued at between \$25,000 and \$99.9 million, for a total value of \$11 billion. The nine determinations relating to complaints received in the fiscal year represented contracts valued at \$276.6 million, which represents, at most, 2.5 percent of the total value of contracts issued by PWGSC in 2004-2005 or 0.05 percent of the total number of contracts issued.

**Trade and Tariff  
Reference**

The Tribunal completed one tariff reference during the fiscal year, and one was in progress at year-end. On May 19, 2004, the Tribunal was directed by the Minister of Finance to inquire into and report on the availability of certain textile inputs produced by Canadian textile manufacturers for use in the production of apparel. The Tribunal published its report on December 20, 2004. On January 10, 2005, the Tribunal was directed by the Minister of Finance to inquire into and report on the availability of fibres and yarns produced by Canadian manufacturers and on the availability of fabrics produced by Canadian manufacturers for use in the production of apparel contained in Chapters 39, 40, 51, 52, 53, 54, 55, 56, 58, 59, 60 and 70. At the end of the year, the preliminary information-gathering phase of the inquiry was completed, and the Tribunal published its staff report.

The Tribunal, pursuant to subsection 26(1) of the *Canadian International Trade Tribunal Act (CITT Act)*, commenced a global safeguard inquiry into the importation of bicycles, assembled or unassembled, and another global safeguard inquiry into the importation of finished painted bicycle frames. The proceedings of the two safeguard inquiries were combined.

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**Textile Reference**

During the fiscal year, the Tribunal issued three reports to the Minister of Finance concerning three requests for tariff relief. At the end of the year, there was one request for which an investigation had not yet been initiated.

**Appeals**

The Tribunal issued decisions on 20 appeals from decisions of the CBSA or the Canada Customs and Revenue Agency (CCRA) (now the CBSA) and the Minister of National Revenue made under the *Customs Act* and the *Excise Tax Act*.

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

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 offers a subscriber alert service that notifies subscribers of each new posting on the Tribunal's Web site. Subscribers can choose their areas of interest. The service also allows subscribers to register and deregister on-line. This service is available free of charge.

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

**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.

## Caseload

	Cases Brought Forward from Previous Fiscal Year	Cases Received in Fiscal Year	Total	Decisions/ Reports Issued	Cases Withdrawn/ Not Initiated/ Dismissed	Cases Outstanding (March 31, 2005)
<b>S/IMA ACTIVITIES</b>						
Preliminary Injury Inquiries	-	3	3	3	-	-
Inquiries	1	6	7	5	1	1
Public Interest Inquiries	-	1	1	1	-	-
Requests for Interim Reviews	-	10	10	3*	-	3
Expiries	-	1	1	1	-	-
Expiry Reviews	4	8	12	5	-	7
<b>APPEALS</b>						
Extensions of Time						
<i>Customs Act</i>	2	2	4	4	-	-
<i>Excise Tax Act</i>	-	86	86	84	1	1
Decisions						
<i>Customs Act</i>	48	45	93	12	19	62
<i>Excise Tax Act</i>	88	15	103	8	6	89
<i>S/IMA</i>	2	1	3	-	1	2
<b>ECONOMIC, TRADE, TARIFF AND SAFEGUARD INQUIRIES</b>						
Textile Reference						
Requests for Tariff Relief	4	1	5	3	1	1
Expiries	-	-	-	-	-	-
Reviews	-	-	-	-	-	-
Requests for Reconsideration	1	-	1	1	-	-
Economic, Trade and Tariff-related Matters	-	2	2	1	-	1
Safeguard Inquiries						
Global	-	2	2	-	-	2
Imports from the People's Republic of China	-	-	-	-	-	-
<b>PROCUREMENT REVIEW ACTIVITIES</b>						
Complaints	11	63**	74	19***	47	8

\* Five requests were combined and one decision was issued.

\*\* Includes one case that was remanded by the Federal Court of Appeal.

\*\*\* Includes decisions on three cases that had been remanded by the Federal Court of Appeal.

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# CHAPTER II

## MANDATE, ORGANIZATION AND ACTIVITIES

### 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*, the *Canadian International Trade Tribunal Procurement Inquiry Regulations* and the *Canadian International Trade Tribunal Rules (Rules)*.

### 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 from decisions of the CBSA made under the *Customs Act* and *SIMA* or of the Minister of National Revenue under the *Excise Tax Act*;
- 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 *Agreement on Government Procurement (AGP)* and the *Canada-Korea Agreement on the Procurement of Telecommunications Equipment*;
- conduct investigations into requests from Canadian producers for tariff relief on imported textile inputs used in production operations and to make recommendations to the Minister of Finance on the relative benefits to Canada of the request;
- conduct global safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, serious injury to domestic producers;
- conduct safeguard inquiries with respect to increased imports from the People's Republic of China (China); and

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**Method of Operation**

- 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.

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; however, these are not as formal or strict to facilitate access. 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. Protecting commercially sensitive information against unauthorized disclosure has been, and continues to be, of paramount importance to the Tribunal.

**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. 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**

There are currently 7 Tribunal members assisted by a permanent staff of 87 persons. Its principal officers are the Secretary, responsible for relations with the public and parties, and the court registry functions of the Tribunal; the Director General of the Research Branch, 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; the General Counsel, responsible for the provision of legal services; and the Director of Management Services, responsible for corporate management.

**Consultations**

Through the Bench and Bar Committee (Tribunal-Canadian Bar Association), 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

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**Judicial Review  
and Appeals to  
the Federal Court  
of Appeal**

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.

Any person affected by Tribunal findings or orders under section 43, 44 or 76 of *SIMA* can request judicial review by the Federal Court of Appeal, for instance, on grounds of alleged denial of natural justice and error of fact or law. Similarly, any person affected by Tribunal procurement orders or determinations under the *CITT Act* can request judicial review by the Federal Court of Appeal. Lastly, Tribunal appeal orders and decisions, under the *Customs Act*, *SIMA* or the *Excise Tax Act*, can be appealed to the Federal Court of Appeal or the Federal Court.

**Judicial Review  
by *NAFTA*  
Binational Panel**

Tribunal findings, orders or recommendations under section 43, 44 or 76 of *SIMA* involving goods from the United States and Mexico may be reviewed by a *NAFTA* binational panel.

**WTO Dispute  
Resolution**

Governments that are members of the WTO may challenge Tribunal injury findings or orders in dumping and countervailing duty cases before the WTO dispute settlement bodies. This is initiated by intergovernmental consultations.

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**Organization**

**CHAIRPERSON**

Pierre Gosselin

**VICE-CHAIRPERSONS**

Patricia M. Close  
Richard Lafontaine

**MEMBERS**

Zdenek Kvarda  
James A. Ogilvy  
Ellen Fry  
Meriel V. M. Bradford

**SECRETARIAT**

**Secretary**  
Hélène Nadeau

**RESEARCH BRANCH**

**Director General**  
John A. Greig

**LEGAL SERVICES BRANCH**

**General Counsel**  
Reagan Walker

**MANAGEMENT SERVICES**

**Director**  
Julia Ginley



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## Legislative Mandate

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Section	Authority
<b><i>CITT Act</i></b>	
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
30.21 to 30.26	Safeguard Inquires Concerning Market Disruption, Trade Diversion and Market Disruption Extension regarding Goods Originating in China at the Request of either the Government or a Domestic Producer
<b><i>SIMA</i></b>	
33 and 37	Advice Regarding Reference to the Tribunal
34(2) and 35(3)	Preliminary Injury 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 Appeal or a Binational Panel)
45	Public Interest
46	Advice to the CBSA
61	Appeals of Re-determinations of the CBSA 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

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## Legislative Mandate of the Tribunal (cont'd)

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Section	Authority
76	Reviews of Findings of Injury Initiated by the Tribunal or at the Request of the CBSA or Other Interested Persons
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
<b>Customs Act</b>	
60.2	Application for an extension of time to request a re-determination or a further re-determination
67	Appeals of Decisions of the CBSA 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 Appeal
70	References of the CBSA Relating to the Tariff Classification or Value for Duty of Goods
<b>Excise Tax Act</b>	
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
<b>Softwood Lumber Products Export Charge Act</b>	
18	Appeals of Assessments and Determinations of the Minister of National Revenue
<b>Energy Administration Act</b>	
13	Declarations Concerning the Amount of Oil Export Charge

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## CHAPTER III

### DUMPING AND SUBSIDIZING INJURY INQUIRIES AND REVIEWS

#### Process

Under *SIMA*, the CBSA 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 CBSA. 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 CBSA. If the CBSA 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 CBSA 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, it does not issue questionnaires or hold a public hearing. The Tribunal completes its inquiry within 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 CBSA continues the dumping or subsidizing investigation. If there is no reasonable indication that the dumping or

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

subsidizing has caused injury or retardation, or is threatening to cause injury, the Tribunal terminates the inquiry, and the CBSA terminates the dumping or subsidizing investigation. The Tribunal issues reasons no later than 15 days after its determination.

The Tribunal completed three 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 CBSA decides not to initiate an investigation because the evidence does not disclose a reasonable indication that the dumping or subsidizing of the goods has caused injury or retardation, or threatens to cause injury, the CBSA 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 CBSA 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 CBSA 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 CBSA makes a preliminary determination of dumping or subsidizing, the Tribunal commences a final injury inquiry under section 42 of *SIMA*. The CBSA may levy provisional duties on imports from the date of the preliminary determination. The CBSA continues its 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, purchasers and 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

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

at decisions regarding material injury or retardation or threat of material injury to a domestic industry. The report becomes part of the case record and is 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 once the CBSA has made 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. Under certain circumstances, parties may seek exclusions from a Tribunal finding.

The Tribunal must issue its finding within 120 days from the date of the preliminary determination by the CBSA. It 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 CBSA to impose anti-dumping or countervailing duties.

The Tribunal completed five final injury inquiries in the fiscal year. They concerned *Wood Venetian Blinds and Slats* (NQ-2003-003), *Stainless Steel Wire* (NQ-2004-001), *Steel Fuel Tanks* (NQ-2004-002), *Frozen Self-rising Pizza* (NQ-2004-003) and *Fasteners* (NQ-2004-005). In 2003, the estimated values of the Canadian markets for these goods were, respectively, \$37 million, \$36 million, \$14 million, \$168 million and \$396 million. The final injury inquiry concerning *Outdoor Barbeques* (NQ-2004-004) was terminated.

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**Wood Venetian Blinds  
and Slats**

NQ-2003-003

*Finding: Injury/No injury  
(June 18, 2004)*

This inquiry concerned dumped imports from Mexico and China. The Tribunal found that there were three classes of goods: stock wood blinds (stock blinds), custom wood blinds (custom blinds) and wood slats (slats). The Tribunal was also of the view that domestically produced custom blinds were like goods to the subject custom blinds, that domestically produced slats were like goods to the subject slats, but that stock blinds were not like custom blinds.

The Tribunal found that the assembly of custom blinds using imported components constituted domestic production of custom blinds. However, the modification of imported stock blinds using cut-down machines in Canada did not constitute domestic production of stock blinds nor additional domestic production of custom blinds.

The Tribunal noted that there was no Canadian mass production of blinds in limited standard sizes and, therefore, no domestic stock blind industry. The Tribunal found that the domestic custom blind industry comprised the integrated producers, along with the fabricators, with the exception of Levolor Home Fashions Canada (Levolor) that imported from Mexico.

The Tribunal noted that Stores de Bois Montréal Inc. (SBM) and its supporters' average share of domestic production (excluding production by Levolor) was lower than 20 percent during the period of inquiry and could not reasonably be characterized as a major proportion of the domestic production of custom blinds. With respect to slats, the Tribunal found that the domestic slat industry was comprised of SBM, Trans UV and Les Stores A.T.S. Enr., which accounted for all known domestic slat producers.

The Tribunal terminated its inquiry in respect of custom blinds from China and stock blinds from Mexico, since there were no imports of such blinds from these countries. However, it found that the volume of dumped slats from China or Mexico was not negligible.

Since there was no stock blind industry in Canada, the Tribunal found that the dumping of stock blinds in Canada had not caused and was not threatening to cause injury and was not causing material retardation to the establishment of a domestic stock blind industry.

The Tribunal found that SBM and its supporters' production did not account for a major proportion of total domestic production of custom blinds. Therefore, the dumping of custom blinds in Canada had not caused injury and was not threatening to cause injury to the domestic custom blind industry.

The Tribunal found that there was a surge in the volume of subject slats that entered Canada directly from China and Mexico. In the Tribunal's view, the

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subject slats competed with the like goods and had taken market share from the domestic producers, reduced their sales and restrained domestic production.

The Tribunal found that price was the main driving factor behind the surge in imports from the subject countries. It also found that the prices of the dumped “direct” imports caused lost sales to the domestic slat industry. With regard to the dumping of “indirect” imports from the United States originating in China, the Tribunal noted that, while the share of the market represented by their sales might, for the most part, be inaccessible to domestic slat producers, since fabricators were reluctant to purchase slats from potential competitors, it remained that these imports entered Canada at low prices, which allowed domestic fabricators to market custom blinds with good profit margins in competition with SBM.

With respect to the impact of the dumping on the domestic slat industry, the Tribunal concluded that it had underutilized its capacity, lost market share and revenues, experienced low returns on investment, and suffered other negative impacts on inventory and its financial performance. Accordingly, the Tribunal considered that the increasing volumes of imports at dumped prices from China and Mexico had caused injury to the domestic slat producers.

***Stainless Steel Wire***

*NQ-2004-001*

*Finding: Injury  
(July 30, 2004)*

This inquiry concerned dumped imports from the Republic of Korea (Korea), Switzerland and the United States, and subsidized imports from India. Central Wire Industries Ltd. (Central Wire) constituted the domestic industry. The Tribunal found that the stainless steel wire produced by the domestic industry were like goods to the subject goods.

Although there were several non-price factors at work in the market that played a role in explaining the displacement of domestic sales in 2003 by the subject goods, the main non-price factors that caused Central Wire to lose sales volume were the decline in market demand and the natural commercial behaviour of customers in seeking imports as a second source of supply. The Tribunal concluded that these two factors readily explained the gain in volume and market share by the subject countries.

The Tribunal found that the domestic industry experienced significant increases in material and other production costs between 2001 and 2003, which, in the normal course of events, it would have recovered by increasing its prices. The Tribunal noted that, starting in 2003, and increasing in 2004, the domestic industry experienced a significant shortfall in its ability to recover its increased costs. In the Tribunal’s view, the presence of the low-priced subject goods was the one factor that could reasonably explain why this problem occurred.

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The Tribunal indicated that, although the dumping and subsidizing of the subject goods did not appear to contribute significantly to the loss of volume or market share by the domestic industry (and therefore did not contribute to the decline in its employment or capacity utilization), it did cause price suppression in the domestic market for stainless steel wire. In the Tribunal's view, this price suppression led directly to the erosion in financial performance, particularly in terms of gross margins, experienced by the domestic industry in 2003 and the first four months of 2004. The Tribunal was persuaded that this deterioration in financial performance caused by the dumping and subsidizing also played a significant part in leading to the reduction in investment and the reduced ability to raise capital.

The Tribunal granted a number of product exclusions for various stainless steel wire products.

**Steel Fuel Tanks**

*NQ-2004-002*

*Finding: No Injury  
(August 31, 2004)*

This inquiry concerned dumped imports from China and Chinese Taipei. The Tribunal found that domestically produced replacement fuel tanks were like goods to the subject goods. The domestic industry consisted of Spectra Premium Industries (SPI), the only manufacturer of replacement fuel tanks in Canada.

SPI's domestic sales dropped sharply in 2002, coinciding with a sharp decline in the overall market. In the Tribunal's view, while SPI lost market share in 2002 to the subject goods, the subject goods displaced a relatively small volume of SPI's sales. The bulk of the decline in SPI's sales resulted from the general market contraction in 2002.

The Tribunal found that SPI's prices eroded by only a small amount over the period of inquiry. The Tribunal also noted that, when the appreciation of the Canadian dollar from 2002 onwards was taken into account, the sharp decline in importers' purchasing costs of imports observed in 2003 was attributable more to exchange rates than to a deliberate effort by the foreign producers to reduce their selling prices in the Canadian market. The Tribunal also found that, where SPI experienced price suppression, it was minimal.

The Tribunal found that the cause of SPI's worsening performance in 2002 was the general market contraction, with the remainder of the injury attributable to other non-dumping factors. In the Tribunal's view, SPI's market behaviour, in particular its strategy of selling at all trade levels in the Canadian replacement fuel tank market and, in effect, competing with its own customers, was an important factor negatively affecting its performance.



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**Frozen Self-rising  
Pizza**

NQ-2004-003

*Finding: No Injury  
(August 18, 2004)*

The Tribunal also found that the dumped imports were not threatening to cause injury. It found that imports had maintained a stable market share since 2002 and that there had been no aggressive marketing in Canada by the foreign producers. Further, the Tribunal noted that the Chinese producers' market of choice was the United States. The Tribunal also noted that import prices were increasing in the first quarter of 2004.

This inquiry concerned dumped imports from the United States. The domestic industry consisted of McCain Foods Limited (McCain). The Tribunal found that the frozen self-rising pizza produced by the domestic industry were like goods to the subject goods.

Just days prior to the hearing, McCain notified the Tribunal that it was withdrawing from participation in the proceedings and was withdrawing its case, its expert report and its reply brief. In the Tribunal's opinion, McCain's decision detracted from the probative value and persuasiveness of its complaint and remaining evidence.

The Tribunal reviewed the remaining written record and was not persuaded by the evidence therein that the domestic industry had suffered injury as a result of the dumped subject goods. As to the threat of injury, the Tribunal determined that the evidence did not disclose a change in circumstances that suggested that dumped imports might have a different effect in the future. Specifically, the evidence on the record did not indicate that there was any imminent major increase in U.S. frozen self-rising pizza shipments to Canada. By all accounts, the U.S. producers of frozen self-rising pizza were running at high rates of capacity utilization, and this was not likely to change in the near future.

**Outdoor Barbeques**

NQ-2004-004

*Finding: Inquiry  
Terminated  
(December 23, 2004)*

This inquiry concerned dumped and subsidized imports from China. The domestic industry consisted of Fiesta Barbeques Limited, Onward Manufacturing Company Limited and two smaller producers, CFM Corporation and Wolf Steel Limited.

On November 19, 2004, the CBSA notified the Tribunal that it had completed its final determination and terminated the investigation into the dumping and subsidizing of outdoor barbeques from China. Therefore, there was no finding issued by the Tribunal in this case.

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**Fasteners**  
NQ-2004-005  
*Finding: Injury/No Injury*  
*(January 7, 2005)*

This inquiry concerned dumped and subsidized imports from China and dumped imports from Chinese Taipei. The Tribunal determined that the like goods should be divided into four classes: carbon steel screws, carbon steel nuts and bolts, stainless steel screws, and stainless steel nuts and bolts, and that these goods were like goods to the subject goods. Accordingly, it conducted separate analyses of injury for each class of goods.

In the case of stainless steel nuts and bolts, the Tribunal determined that, because the sole domestic producer that it considered constituted the domestic industry was no longer claiming injury or threat of injury, there was no injury or threat of injury.

The Tribunal determined that the volume of both dumped and subsidized imports of stainless steel screws from China was negligible and terminated its inquiry in respect of those goods.

The Tribunal considered that it was appropriate to make an assessment of the cumulative effect of the dumping and subsidizing of carbon steel screws and carbon steel nuts and bolts from China and Chinese Taipei.

Turning to carbon steel screws, the Tribunal found that Arrow Fasteners Ltd. (Arrow), Leland Industries Inc. (Leland), Ready Rivet & Fastener Ltd., Visqué Inc. and Westland Steel Products Ltd. (Westland) constituted the domestic industry.

The Tribunal found that the declines in domestic production, domestic sales and domestic market share seen during the period of inquiry resulted from the significant increase in the volume of carbon steel screws imported from the subject countries. It also found that the decline in selling prices of imports from the subject countries suppressed and eroded the selling prices of the domestic industry and, further, that the decline facilitated the significant increase in imports and sales of the subject carbon steel screws. Finally, the domestic industry's gross margin plummeted over the period of inquiry, and it experienced losses that the Tribunal considered material.

Turning to carbon steel nuts and bolts, the Tribunal found that the production of Infasco, Division of Ifastgroupe and Company, Limited Partnership (Ifastgroupe Inc., General Partner) (Infasco) and Leland constituted the domestic industry.

The Tribunal concluded that there was little net displacement of domestic production between 2001 and 2003, as the market remained essentially stable. In the first six months of 2004, domestic production and sales from domestic production grew, as did the domestic market. The domestic industry's selling prices fell continuously from 2001 to 2003, while selling prices for imports from

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the subject countries rose. In the first six months of 2004, the domestic industry was able to increase its selling prices.

The Tribunal found that the worsening financial results in 2003 for Infasco, the largest domestic producer, were the result of its own particular circumstances and were not reflective of the market pressures faced by the domestic industry as a whole.

Based on the current state of the domestic industry and the market, the Tribunal was not convinced that the dumping and subsidizing of the subject carbon steel nuts and bolts threatened to cause injury. It did not take the increase in the volume of imports from the subject countries in the first six months of 2004 as evidence of a threat of injury because prices for the subject carbon steel nuts and bolts were also rising during that period.

Turning to stainless steel screws, the Tribunal found that Arrow, Leland and Westland constituted the domestic industry.

The Tribunal was of the view that the growth in the market for stainless steel screws during the period of inquiry was for the most part taken up by imports from Chinese Taipei and that the domestic industry did not suffer any price erosion from imports of stainless steel screws from Chinese Taipei during this period. A review of the domestic industry's selling prices revealed steady and substantial increases throughout the period of inquiry. Selling prices of imports from Chinese Taipei displayed the opposite trend.

The domestic industry suffered injury in terms of a diminution of its production, sales volume and market share. However, the Tribunal was not persuaded that imports from Chinese Taipei were responsible for the injury, in view of the fact that selling prices for imports from Chinese Taipei were greater than selling prices for domestic stainless steel screws.

The nearly twofold increase in sales of stainless steel screws from Chinese Taipei in the first six months of 2004 was viewed by the Tribunal as the most compelling evidence of a threat of injury. As well, despite worldwide increases in steel costs, the selling prices of imports of stainless steel screws from Chinese Taipei fell in the first quarter of 2004, extending the downward trend that they displayed throughout the period of inquiry.

A critical feature of the inquiry was the more than 20,000 individual requests for product exclusions.

The domestic industry consented to a number of product exclusion requests and, to the extent that the products were within the scope of the findings and

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

consistent with the Tribunal's overall treatment of all other requests, it granted them. The Tribunal also excluded all products that the domestic industry did not produce or was not capable of producing. Finally, the Tribunal also granted an exclusion for collated screws.

There was one inquiry in progress at the end of the fiscal year, *Laminate Flooring* (NQ-2004-006). This inquiry concerns dumped imports from Austria, Belgium, China, France, Germany and Poland.

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

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

Following a finding of injury, the Tribunal notifies all interested parties that any submissions requesting an inquiry must be filed within 45 days. It may initiate, either after a request from an interested person or on its own initiative, a public interest inquiry following a finding of injury caused by dumped or subsidized imports. It may decide that there are reasonable grounds to consider that the imposition of part or all of the duties may not be in the public interest. It 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 two requests for a public interest inquiry during the fiscal year following its findings in Inquiry No. NQ-2004-001, concerning stainless steel wire from Korea, Switzerland and the United States, and the subsidizing of such product from India. Further to these requests, the Tribunal initiated Public Interest Inquiry No. PB-2004-002.

On March 22, 2005, the Tribunal reported to the Minister of Finance that it was of the opinion that the continued imposition of the anti-dumping duty at a rate of up to 181 percent on belting wire and wireline from the United States was not in the public interest. The Tribunal recommended the reduction of the anti-dumping duty to a rate of 35 percent.

Furthermore, the Tribunal found no basis to conclude that the imposition of the anti-dumping duty and the countervailing duty in the full amount on other types of stainless steel round wire, or on the subject stainless steel round wire from the other subject countries, would not or might not be in the public interest.

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## Importer Ruling

Under section 89 of *SIMA*, the CBSA 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 CBSA, it may reconsider its original finding of material injury under section 91.

There were no requests for an importer ruling 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 CBSA or any other person or government (section 76.01 of *SIMA*). It 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.

The Tribunal received 10 requests for interim reviews during the fiscal year. It determined that reviews were warranted in 7 cases.

## Interim Reviews Completed in the Fiscal Year

The Tribunal completed seven interim reviews in the fiscal year.

On April 1, 2004, the Tribunal received a request for an interim review of its order made on September 3, 2003, in Expiry Review Nos. RR-2002-003 and RR-2002-004 (as amended by the order made by the Tribunal on January 26, 2004, in Interim Review No. RD-2003-001) concerning *Stainless Steel Round Bar Products* (RD-2004-001). The applicant, Hitachi Canadian Industries Limited, requested the review for the exclusion of five specific stainless steel round bar products. On June 21, 2004, the Tribunal determined that an interim review was warranted. On August 6, 2004, it amended the order to exclude the products for which exclusions had been requested, as well as an equivalent product.

On April 14, 2004, the Tribunal received a request for an interim review of its finding made on June 27, 2000, in Inquiry No. NQ-99-004 concerning *Hot-rolled Carbon Steel Plate* (RD-2004-002). The applicant, Anchor Lamina Inc., requested the review for the exclusion of desulphurized pressure vessel quality

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carbon steel plate meeting certain specifications. On July 15, 2004, the Tribunal determined that an interim review was warranted. On August 23, 2004, it amended the finding to exclude the product for which an exclusion had been requested.

On September 24, 2004, the Tribunal received two requests from Sumitomo Canada Limited for an interim review of its finding made on October 27, 2000, in Inquiry No. NQ-2000-002, and its order made on September 3, 2003, in Review Nos. RR-2002-003 and RR-2002-004 (as amended by its order made on January 26, 2004, in Interim Review No. RD-2003-001, and its order made on August 6, 2004, in Interim Review No. RD-2004-001) concerning *Stainless Steel Round Bar* (Interim Review Nos. RD-2004-003 and RD-2004-004). On October 6, 2004, the Tribunal received a request from Corus Engineering Steels for an interim review of the order to exclude all subject goods originating in or exported from the United Kingdom (Interim Review No. RD-2004-005). On October 13, 2004, the Tribunal received a request from Velan Inc. for an interim review of the finding and the order to exclude all subject goods (Interim Review No. RD-2004-006). On November 15, 2004, the Tribunal received a request from UGINE Stainless & Alloys Inc. and Ugitech S.A. for an interim review of the order to exclude certain specific products exported by Ugitech from France and not produced in Canada, namely, certain stainless steel round bar made using the UGIMA® process (Interim Review No. RD-2004-007). The Tribunal decided to combine the five requests and, on December 8, 2004, the Tribunal determined that an interim review of both the finding and the order was warranted. On January 18, 2005, it rescinded the finding and the order.

### **Interim Reviews in Progress at the End of the Fiscal Year**

No interim reviews were in progress, and there were three requests for interim reviews under consideration at the end of the fiscal year.

Table 3 summarizes the Tribunal's interim review activities during the fiscal year.

### **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. No 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 CBSA of its

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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 10 notices of expiry and initiated 8 expiry reviews, one of which (*Concrete Reinforcing Bar*) related to a notice of expiry issued in the previous fiscal year.

In Expiry No. LE-2004-001, *Canned Ham*, the Tribunal received no request for a review of its order made on March 20, 2000, in Review No. RR-99-002, continuing, with amendment, its order made on March 21, 1995, in Review No. RR-94-002, continuing, without amendment, its order made on March 16, 1990, in Review No. RR-89-003, continuing, without amendment, the findings of the Anti-dumping Tribunal in its report made on August 7, 1984, in Inquiry No. GIC-1-84. The Tribunal decided that a review of its order was not warranted. The order expired on March 19, 2005.

In Expiry No. LE-2004-002, *Iodinated Contrast Media*, the Tribunal received no request for a review of its finding made on May 1, 2000, in Inquiry No. NQ-99-003. The Tribunal decided not to initiate a review. The finding is scheduled to expire on April 29, 2005.

In Expiry No. LE-2004-008, *Stainless Steel Round Bar*, the Tribunal was not satisfied that a review of its finding made on October 27, 2000, in Inquiry No. NQ-2000-002 was warranted. The finding is scheduled to expire on October 26, 2005.

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 CBSA to determine whether there is a likelihood of resumed or continued dumping or subsidizing if the finding or order expires. If the CBSA 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 CBSA determines that such 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

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## Expiry Reviews Completed in the Fiscal Year

finding or order is rescinded, imports are no longer subject to anti-dumping or countervailing duties.

In the fiscal year, the Tribunal completed five expiry reviews, four of which had been commenced in the previous fiscal year.

On May 17, 2004, the Tribunal rescinded its order in *Carbon Steel Plate* (RR-2003-001) respecting dumped imports from Italy, Korea, Spain and Ukraine.

On June 30, 2004, the Tribunal rescinded its finding in *Flat Hot-rolled Carbon and Alloy Steel Sheet Products* (RR-2003-002) respecting dumped imports from France, Romania, the Russian Federation and the Slovak Republic.

On July 27, 2004, the Tribunal rescinded its orders in *Corrosion-resistant Steel Sheet Products* (RR-2003-003) respecting dumped imports from Brazil, Germany, Japan, Korea and the United States.

On August 26, 2004, the Tribunal rescinded its findings in *Cold-rolled Steel Sheet Products* (RR-2003-004) respecting dumped imports from Belgium, the Russian Federation, the Slovak Republic and Turkey.

On January 11, 2005, the Tribunal rescinded its finding in *Concrete Reinforcing Bar* (RR-2004-001) respecting dumped imports from Cuba, Korea and Turkey.

## Expiry Reviews in Progress at the End of the Fiscal Year

Seven expiry reviews were in progress at the end of the fiscal year. They were reviews of the findings or orders in: *Women's Boots* (RR-2004-002) respecting dumped imports from China; *Carbon Steel Welded Pipe* (RR-2004-003) respecting dumped imports from Korea; *Hot-rolled Carbon Steel Plate* (RR-2004-004) respecting dumped and subsidized imports from Brazil, Finland, India, Indonesia, Thailand and Ukraine; *Whole Potatoes* (RR-2004-006) respecting dumped imports from the United States; *Refined Sugar* (RR-2004-007) respecting dumped and subsidized imports from the United States, Denmark, Germany, the Netherlands, the United Kingdom and the European Union; and *Waterproof Footwear and Bottoms* (RR-2004-008) respecting dumped imports from China. With regard to *Dishwashers and Dryers* (RR-2004-005) respecting dumped imports from the United States, on March 17, 2005, the CBSA determined that the expiry of the findings made on August 1, 2000, in Inquiry No. NQ-2000-001, as amended on March 19, 2003, in Interim Review No. RD-2002-005, was unlikely to result in the continuation or resumption of dumping.



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**Judicial or Panel  
Review of *SIMA*  
Decisions**

As a result of the CBSA's determination, on March 18, 2005, the Tribunal sent a letter to interested parties advising them that, without further consideration of the matter, it planned to issue, on July 29, 2005, an order rescinding its findings made in Inquiry No. NQ-2000-001, as amended.

On March 22, 2005, Electrolux Home Products, Inc. and Electrolux Canada Corp., the successors and assigns of White Consolidated Industries, Inc. (collectively Electrolux), filed a motion requesting the Tribunal to issue an order rescinding the above-noted findings effective March 17, 2005. Electrolux also asked the Tribunal, in the alternative, pursuant to section 76.01 of *SIMA*, for the immediate initiation of an interim review of the findings.

Table 4 summarizes the Tribunal's expiry review activities during the fiscal year. Table 5 lists Tribunal findings and orders in force as of March 31, 2005.

Table 6 lists the Tribunal's decisions under section 43, 44 or 76 of *SIMA* that were before the Federal Court of Appeal or the Federal Court for judicial review or for review by a binational panel in the fiscal year.

**WTO Dispute  
Resolution**

There are no Tribunal findings or orders before the dispute settlement bodies of the WTO.

**International  
Assistance**

As a major player in Canada's trade remedies system, the Tribunal is often called upon to provide assistance to countries seeking to implement trade remedies or to countries negotiating to become members of the WTO. In 2004-2005, the Tribunal provided assistance to representatives from Vietnam and Tunisia. Discussions were held with Costa Rica.

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## TABLE 1

### Preliminary Determinations of Injury Issued Under Subsection 37.1(1) of *SIMA*

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Preliminary Injury Inquiry No.	Product	Country	Date of Determination	Determination
PI-2004-001	Outdoor Barbeques	China	June 11, 2004	Injury
PI-2004-002	Fasteners	China and Chinese Taipei	June 28, 2004	Injury
PI-2004-003	Laminate Flooring	Austria, Belgium, China, France, Germany and Poland	December 3, 2004	Injury

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**TABLE 2****Findings Issued Under Section 43 of *SIMA* and Inquiries Under Section 42 of *SIMA* in Progress at Year-end**

<b>Inquiry No.</b>	<b>Product</b>	<b>Country</b>	<b>Date of Finding</b>	<b>Finding</b>
NQ-2003-003	Wood Venetian Blinds and Slats	China and Mexico	June 18, 2004	Injury/No injury
NQ-2004-001	Stainless Steel Wire	Korea, Switzerland, United States and India	July 30, 2004	Injury
NQ-2004-002	Steel Fuel Tanks	China and Chinese Taipei	August 31, 2004	No injury
NQ-2004-003	Frozen Self-rising pizza	United States	August 18, 2004	No injury
NQ-2004-004	Outdoor Barbeques	China	December 23, 2004	Inquiry terminated
NQ-2004-005	Fasteners	China and Chinese Taipei	January 7, 2005	Injury/No injury
NQ-2004-006	Laminate Flooring	Austria, Belgium, China, France, Germany and Poland		In progress

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**TABLE 3****Orders Issued Under Section 76.01 of SIMA and Requests for Interim Reviews Under Consideration at Year-end**

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<b>Review or Request No.</b>	<b>Product</b>	<b>Country</b>	<b>Date of Order</b>	<b>Order</b>
RD-2004-001	Stainless Steel Round Bar Products	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei, United Kingdom and Korea	August 6, 2004	Order amended
RD-2004-002	Hot-rolled Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine	August 23, 2004	Finding amended
RD-2004-003 to RD-2004-007	Stainless Steel Round Bar	Brazil, India, Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei, United Kingdom and Korea	January 18, 2005	Finding and order rescinded
RD-2004-008	Waterproof Rubber Footwear	China		Under consideration
RD-2004-009	Fasteners	China and Chinese Taipei		Under consideration
RD-2004-010	Dishwashers and Dryers	United States		Under consideration

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**TABLE 4****Orders Issued Under Section 76.03 of SIMA and Expiry Reviews in Progress at Year-end**

<b>Review No.</b>	<b>Product</b>	<b>Country</b>	<b>Date of Order</b>	<b>Order</b>
RR-2003-001	Carbon Steel Plate	Italy, Korea, Spain and Ukraine	May 17, 2004	Order rescinded
RR-2003-002	Flat Hot-rolled Carbon and Alloy Steel Sheet Products	France, Romania, Russian Federation and Slovak Republic	June 30, 2004	Finding rescinded
RR-2003-003	Corrosion-resistant Steel Sheet Products	Brazil, Germany, Japan, Korea and United States	July 27, 2004	Orders rescinded
RR-2003-004	Cold-rolled Steel Sheet Products	Belgium, Russian Federation, Slovak Republic and Turkey	August 26, 2004	Findings rescinded
RR-2004-001	Concrete Reinforcing Bar	Cuba, Korea and Turkey	January 11, 2005	Finding rescinded
LE-2004-008	Stainless Steel Round Bar	Brazil and India	January 18, 2005	Review not warranted
RR-2004-002	Women's Boots	China		In progress
RR-2004-003	Carbon Steel Welded Pipe	Korea		In progress
RR-2004-004	Hot-rolled Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine		In progress
RR-2004-005	Dishwashers and Dryers	United States		In progress
RR-2004-006	Whole Potatoes	United States		In progress
RR-2004-007	Refined Sugar	United States, Denmark, Germany, Netherlands, United Kingdom and European Union		In progress
RR-2004-008	Waterproof Footwear and Bottoms	China		In progress

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**TABLE 5****SIMA Findings and Orders in Force as of March 31, 2005**

Review No. or Inquiry No.	Date of Decision	Product <sup>1</sup>	Country	Related Decision No. and Date
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	Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine	
NQ-2000-001	August 1, 2000	Dishwashers and Dryers	United States (WCI and Whirlpool)	RD-2002-005 (March 19, 2003)
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)
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	Concrete Reinforcing Bar	Indonesia, Japan, Latvia, Republic of Moldova, Poland, Chinese Taipei and Ukraine	

1. For a complete product description, refer to the most recent finding or order.

## Findings and Orders in Force (cont'd)

Review No. or Inquiry No.	Date of Decision	Product	Country	Related Decision No. and Date
RR-2000-002	July 24, 2001	Carbon Steel Welded Pipe	Argentina, India, Romania, Chinese Taipei, Thailand and Brazil	RR-95-002 (July 25, 1996) NQ-91-003 (January 23, 1992) NQ-90-005 (July 26, 1991)
NQ-2001-001	August 17, 2001	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)
RR-2001-005	October 18, 2002	Waterproof Rubber Footwear	China	RR-97-001 (October 20, 1997) RR-92-001 (October 21, 1992) R-7-87 (October 22, 1987) ADT-2-82 (April 23, 1982) ADT-4-79 (May 25, 1979)
RR-2001-006	January 10, 2003	Hot-rolled Carbon Steel Plate	Mexico, China, South Africa and Russian Federation	NQ-97-001 (October 27, 1997)
RR-2002-001	December 9, 2002	Bicycles and Frames	Chinese Taipei and China	RR-97-003 (December 10, 1997) NQ-92-002 (December 11, 1992)
NQ-2002-003	March 4, 2003	Xanthates	China	
NQ-2002-004	July 16, 2003	Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings	China	
NQ-2003-001	December 23, 2003	Structural Tubing	Korea, South Africa and Turkey	
NQ-2003-002	January 9, 2004	Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate	Bulgaria, Czech Republic and Romania	
NQ-2003-003	June 18, 2004	Wood Venetian Blinds and Slats	China and Mexico	

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## Findings and Orders in Force (cont'd)

<b>Review No. or Inquiry No.</b>	<b>Date of Decision</b>	<b>Product</b>	<b>Country</b>	<b>Related Decision No. and Date</b>
NQ-2004-001	July 30, 2004	Stainless Steel Wire	Korea, Switzerland, United States and India	
NQ-2004-005	January 7, 2005	Fasteners	China and Chinese Taipei	



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**TABLE 6****SIMA Cases Before the Federal Court of Appeal, the Federal Court or a Binational Panel**

Case No.	Product	Country of Origin	Forum	File No./Status
RR-2002-002	Prepared Baby Foods	United States	FCA	A—280—03 Appeal dismissed (May 26, 2004)
MP-2003-001	Bicycles	Chinese Taipei and China	FC	T—755—04 Appeal discontinued (May 4, 2004)
NQ-2003-03	Wood Venetian Blinds and Slats	Mexico and China	FCA	A—382—04 Appeal withdrawn (September 17, 2004)
			BP	CDA-MEX-2004-1904-01 Appeal withdrawn (February 23, 2005)
NQ-2004-002	Fuel Tanks	China and Chinese Taipei	FCA	A—527—04
NQ-2004-005	Fasteners	China and Chinese Taipei	FCA	A—46—05 A—47—05 A—48—05 A—49—05 A—50—05

**Notes:** FCA—Federal Court of Appeal  
FC—Federal Court  
BP—Binational Panel



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# CHAPTER IV

## APPEALS

### Introduction

The Tribunal hears appeals from decisions of the CBSA under the *Customs Act* and *SIMA* or of the Minister of National Revenue under the *Excise Tax Act*. It 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*. It 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 of National Revenue'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

Under the *Rules*, 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 of National Revenue or the CBSA (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.

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## 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, it 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.

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 Appeal or the Federal Court.

## Extensions of Time

Under section 60.2 of the *Customs Act*, a person may apply to the Tribunal for an extension of time to file a request for a re-determination or a further re-determination with the President of the CBSA. Such an application may be granted by the Tribunal after either the President has refused an application under section 60.1 or 90 days have elapsed after the application was made and the person has not been notified of the President's decision. Under section 67.1, a person may make an application to the Tribunal for an extension of time within which to file a notice of appeal with the Tribunal. During the fiscal year, the Tribunal issued four orders under the *Customs Act*, all of which granting an extension of time.

Under section 81.32 of the *Excise Tax Act*, a person may apply to the Tribunal for an order extending the time for serving a notice of objection with the Minister of Finance under section 81.15 or 81.17 or for filing a notice of appeal with the Tribunal under section 81.19. During the fiscal year, the Tribunal issued 84 orders granting extensions of time. One request was abandoned, and one request was outstanding at the end of the fiscal year.

**Appeals Considered**

During the fiscal year, the Tribunal heard 17 appeals, of which 10 related to the *Customs Act* and 7 to the *Excise Tax Act*. Decisions were issued in 20 cases, of which 12 were heard during the fiscal year.

**Decisions on Appeals**

Act	Allowed	Allowed in Part	Dismissed	Total
<i>Customs Act</i>	4	1	7	12
<i>Excise Tax Act</i>	1	-	7	8

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, two of which were heard under the *Customs Act* and one under the *Excise Tax Act*. In addition, a summary of an application for an extension of time is included. These summaries have been prepared for general information purposes only and have no legal status.

**Agri-Pack v. Commissioner of the CCRA**

This was an appeal under section 67 of the *Customs Act* from a decision of the CCRA regarding the tariff classification of eight kinds of onion bags imported by Agri-Pack.

AP-2003-010

Decision:  
Appeal allowed in part  
(November 2, 2004)

Agri-Pack contended that, in accordance with Rule 1 of the *General Rules for the Interpretation of the Harmonized System (General Rules)*, the goods should be classified as “made up nets of man-made textile materials” within the meaning of heading No. 56.08. Agri-Pack added that the goods could not be classified in heading No. 63.05 since they would be excluded by the *Explanatory Notes to the Harmonized Commodity Description and Coding System (Explanatory Notes)*, which state that “this sub-Chapter does not include: . . . Made up nets of heading 56.08.”

The CBSA argued that the goods were excluded from heading No. 56.08 by the *Explanatory Notes*, which state: “Made up nets of this heading are **restricted** to those nets not covered more specifically by other headings”. The CBSA argued that the goods fit squarely within the text of heading No. 63.05, since they

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were “[s]acks and bags, of a kind used for the packing of goods”, and alluded to the fact that, while containing onions, they are shipped, stored in warehouses and offered for sale in grocery stores, a process that could take weeks.

The Tribunal determined that heading No. 63.05 more specifically described the goods and that heading No. 56.08 could not cover the goods by reason of the *Explanatory Notes*. In addition, the Tribunal took note of the fact that the goods are commonly known as bags, not nets. While it was true that the *Explanatory Notes* to heading No. 56.08 include “net shopping bags and similar carrying nets (e.g., for tennis balls or footballs)”, the Tribunal was of the view that the goods were not of a similar kind.

The Tribunal also considered whether the goods could be classified under tariff item No. 9903.00.00, which would allow the goods to be imported with tariff relief. As a preliminary matter, the Tribunal decided that it was not bound in law by the CBSA’s administrative practice to make tariff relief available only where the above tariff item aptly describes the “end use” of the imported article. The Tribunal went on to find that all but one kind of bag should be classified under the above tariff item.

Therefore, the appeal was allowed in part.

**Les Produits Laitiers  
Advidia Inc.  
v.  
Commissioner of the  
CCRA**

AP-2003-040

*Decision:  
Appeal allowed  
(March 8, 2005)*

This was another appeal under section 67 of the *Customs Act*. The issue here was whether the product was properly classified in heading No. 04.04 as consisting of natural milk constituents not elsewhere specified or included, as determined by the CBSA, or should be classified in heading No. 35.01 as casein or No. 35.04 as “other protein substances not elsewhere specified or included”, as claimed by Les Produits Laitiers Advidia Inc. (Advidia).

As a preliminary matter, Advidia submitted that the CBSA should bear the onus of proving that the classification was correct, since it had contradicted its own administrative policy and failed to disclose new facts justifying a change in position. However, the Tribunal found that the CBSA had disclosed enough information for Advidia to know the case that it had to meet. Therefore, the onus of proof remained Advidia’s to bear.

With respect to the substantive basis of the appeal, Advidia argued that the product was covered by both Chapters 4 and 35 and that, therefore, by virtue of Rule 3 of the *General Rules*, it should be classified under the more specific heading. According to Advidia, this was either heading No. 35.01 or heading No. 35.04.

**713460 Ontario Ltd.  
O/A Heirloom Clock  
Company  
v.  
Minister of National  
Revenue**

AP-2003-035

*Decision:  
Appeal allowed  
(August 13, 2004)*

The CBSA and the Dairy Farmers of Canada—intervening in the appeal—argued that the classification issue could be resolved by resorting to Rule 1 of the *General Rules* alone, since the product was composed of nothing but natural milk constituents within the meaning of heading No. 04.04. The CBSA argued that the product could not be classified in heading No. 35.01, since it was not a casein, nor in heading No. 35.04, because heading No. 04.04 was more specific.

The Tribunal decided that it must look beyond the terms of heading No. 04.04, even if the product fit squarely within it, because the heading only applies to “products consisting of natural milk constituents . . . not elsewhere specified or included”. Therefore, the task facing the Tribunal was to determine whether either of the headings suggested by Advidia more specifically covered the product than does heading No. 04.04. As it were, the Tribunal found that heading No. 35.04 provides the most specific description of the product.

Therefore, the appeal was allowed.

This was an appeal under section 81.19 of the *Excise Tax Act* from a decision of the Minister of National Revenue confirming an assessment for unpaid excise taxes. The hearing was held by way of written submissions. The issue was whether Heirloom Clock Company (Heirloom) was a manufacturer of clocks and, if so, whether it should collect and remit excise tax on its sales of grandfather clocks.

Heirloom argued that it was not a clock manufacturer because, although it installed the clock mechanism and the hands of the dial, it did not install the pendulum and weights. According to Heirloom, all these components are necessary to give “clock movement” to a grandfather clock. Therefore, the end product that it sells is not functional and cannot be considered a clock.

The Minister of National Revenue argued that Heirloom was a clock manufacturer because installing the mechanism and the hands of the dial puts a clock movement into a clock, rendering it functional. The Minister of National Revenue relied on a “ruling card”, which provided partly that, if clock components are imported in knocked down condition from the same source, in equal quantity, they will be regarded as clocks.

The Tribunal was of the view that the clock movement of a grandfather clock consists of all the moving parts, including the pendulum and weights, and the movement of a clock is what renders it functional. Since the primary function of a clock is to keep time, the Tribunal was of the opinion that Heirloom had to install all the components of a grandfather clock in the clock cabinet to be considered the manufacturer. Furthermore, the Tribunal was of the opinion that an

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**IPSCO Inc.**  
*EP-2004-006*  
*Order:*  
*Application granted*  
*(February 11, 2005)*

administrative interpretation found in a ruling card, such as the one referred to by the Minister of National Revenue, should not override a clear provision of the *Excise Tax Act*. For these reasons, the Tribunal concluded that the relevant legislative provisions could not be interpreted to mean that excise tax should be collected and remitted on the sales of unassembled clocks that are not functional.

Therefore, the appeal was allowed.

This was only the second time that the Tribunal dealt with an application under section 60.2 of the *Customs Act* for an extension of time to make a request to the CBSA for a further re-determination.

IPSCO Inc. (IPSCO) had imported a pipe mill welding system used to manufacture electric resistance weld pipe. The CCRA assigned separate tariff classifications to the welding system and a component annealing system. This determination was re-affirmed by the CCRA, leading IPSCO to request a further re-determination along with a request for an extension of time to file the request under section 60.1 of the *Customs Act*. The CCRA advised IPSCO that the requests were filed late. After IPSCO filed additional information in support of the requests, the CBSA denied the request for an extension of time on the basis that it would not be just and equitable to other importers to grant the application.

When IPSCO appealed to the Tribunal for an extension of time under section 60.2 of the *Customs Act*, the Tribunal considered whether IPSCO met all four tests in the section. Firstly, the Tribunal noted that the application had been made within the one-year limit for making a request under section 60.1. Secondly, the Tribunal found that IPSCO had a *bona fide* intention to make the request to the CCRA on time, but had missed the deadline by just one day. Thirdly, in the Tribunal's opinion, it would be just and equitable to grant the application, since the CCRA's decision would have a significant impact on IPSCO, the goods were custom made and, as such, others would be not be unfairly disadvantaged by the extension, and it would not have been equitable for IPSCO to lose its opportunity to argue its case because its request was just one day late. Lastly, the Tribunal found that IPSCO's application to the CCRA was made as soon as circumstances permitted in light of the relative complexity of the matter and a potentially relevant Federal Court of Appeal decision that was rendered after the CCRA's re-determination.

Therefore, the Tribunal granted the application.



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**TABLE 1****Appeal Decisions Rendered Under Section 67 of the *Customs Act* and Section 81.19 of the *Excise Tax Act***

<b>Appeal No.</b>	<b>Appellant</b>	<b>Date of Decision</b>	<b>Decision</b>
<b><i>Customs Act</i></b>			
AP-2003-030	Johnson & Johnson Inc.	April 28, 2004	Appeal allowed
AP-2003-020	Alliance Ro-Na Home Inc.	May 25, 2004	Appeal allowed
AP-2003-025	Canmade Furniture Products Inc.	June 2, 2004	Appeal dismissed
AP-2002-115 and AP-2003-029	Newtech Beverage Systems Ltd.	June 3, 2004	Appeals dismissed
AP-2003-031	Agilent Technologies Canada Inc.	August 25, 2004	Appeal dismissed
AP-2003-014	Carl DeFrance	September 9, 2004	Appeal dismissed
AP-2002-113	Excelsior Foods Inc.	September 23, 2004	Appeal dismissed
AP-2003-010	Agri-Pack	November 2, 2004	Appeal allowed in part
AP-2002-116	Black & Decker Canada Inc.	November 3, 2004	Appeal allowed
AP-2004-005	Ken Mitivier	November 24, 2004	Appeal dismissed
AP-2003-040	Les Produits Laitiers Avvidia Inc.	March 8, 2005	Appeal allowed
<b><i>Excise Tax Act</i></b>			
AP-2002-097	Pièces d'autos usagées RTA (1986) Inc.	April 21, 2004	Appeal dismissed
AP-2003-035	713460 Ontario Ltd. o/a Heirloom Clock Company	August 13, 2004	Appeal allowed
AP-2004-008	Brenda Restoule	October 21, 2004	Appeal dismissed
AP-2004-015	Magnum Transport Inc.	January 28, 2005	Appeal dismissed
AP-2002-034 to AP-2002-037	Pierre Roy et Associés Inc. for Lithochrome (1974) Inc. (in Bankruptcy), Le Groupe Lithochrome Inc. (in Bankruptcy), Filmographie P.F. Inc. (in Bankruptcy) and Opticouleur Inc. (in Bankruptcy)	March 31, 2005	Appeals dismissed

## TABLE 2

### Appeal Cases Before the Federal Court of Appeal or the Federal Court<sup>1</sup>

Appeal No.	Appellant	File No./Status
AP-90-117	Artec Design Inc.	T—2066—94
AP-99-062	Barney Printing Limited	T—1627—01
AP-99-114, AP-99-115 and AP-2000-008	Suzuki Canada Inc. and Canadian Kawasaki Motors Inc.	A—358—03 Application allowed (April 2, 2004)
AP-2000-034	Scott Paper Limited	T—1270—02
AP-2000-051	Entrelec Inc.	A—270—03 Application dismissed (April 19, 2004)
AP-2001-004	Staz Communications Inc.	T—1529—03 Application dismissed (November 10, 2004)
AP-2001-007 to AP-2001-010	Star Choice Television Network Incorporated	A—67—03, A—68—03, A—69—03, A—70—03 Applications dismissed (April 13, 2004)
AP-2001-070	M & M Footwear Inc.	A—339—03 Application dismissed (April 28, 2004)
AP-2001-094	Aai FosterGrants of Canada Co.	A—396—03 Application allowed (July 14, 2004)
AP-2002-005	P.L.B. Graphique Inc.	T—1331—03
AP-2002-006	Gray O'Rourke Sussmann Advertising Inc.	T—1334—03
AP-2002-007	King West Communications Inc.	T—1335—03
AP-2002-008	The Russo Group Inc.	T—1332—03
AP-2002-010	Corlab Inc.	T—1333—03
AP-2002-034 to AP-2002-037	Pierre Roy et Associés Inc. (Pierre Roy), for Lithochrome (1974) Inc. (in Bankruptcy), Le Groupe Lithochrome Inc. (in Bankruptcy), Filmographie P.F. Inc. (in Bankruptcy) and Opticouleur Inc. (in Bankruptcy)	A—55—04 A—88—04 Applications discontinued (November 4, 2004)
AP-2002-095	Conair Consumer Products Inc.	A—557—03 Application dismissed (September 1, 2004)
AP-2002-097	Pièces d'autos usagées RTA (1986) Inc.	T—816—04

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 Appeal or the Federal Court, it is unable to confirm that the list contains all appeals that were before the Federal Court of Appeal and the Federal Court.

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## Appeal Cases Before the Federal Court of Appeal or the Federal Court (cont'd)

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Appeal No.	Appellant	File No./Status
AP-2002-103	Mon-Tex Mills Ltd.	A—579—03 Application allowed (October 15, 2004)
AP-2002-113	Excelsior Foods Inc.	A—675—04
AP-2002-116	Black & Decker Canada Inc.	A—33—05
AP-2003-008	PartyLite Gifts Ltd.	A—252—04
AP-2003-010	Agri-Pack	A—34—05
AP-2003-035	713460 Ontario Ltd. o/a Heirloom Clock Company	T—2203—04



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# CHAPTER V

## ECONOMIC, TRADE AND TARIFF REFERENCES AND SAFEGUARD INQUIRIES

### ECONOMIC, TRADE AND TARIFF REFERENCES

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.

### SAFEGUARD INQUIRIES

Another responsibility 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.

The Government may also direct the Tribunal to conduct inquiries to determine if the provision, by persons normally resident outside Canada, of services in Canada is causing or threatens to cause injury to or retards the provision of any services in Canada by persons normally resident in Canada.

### Safeguard Inquiries— Imports from China

The Tribunal may conduct inquiries to determine if increased imports of goods from China are causing or threatening to cause market disruption to domestic producers. It may also conduct inquiries to determine if any action affecting imports of goods from China into the market of another WTO country causes, or threatens to cause, a significant diversion of trade into Canada. It may initiate market disruption or trade diversion inquiries following a complaint by domestic producers. The Government may also direct the Tribunal to conduct market disruption or trade diversion inquiries. Pursuant to an inquiry where the Tribunal makes determinations of market disruption or trade diversion, the Government may apply import safeguard measures to assist domestic producers.

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**Tariff References Completed in the Fiscal Year or in Progress at Year-End**

***Availability of Domestic Textiles for the Production of Apparel in Canada***

*MN-2004-001*

*(December 20, 2004)*

The Tribunal completed one tariff reference during the fiscal year, and one was in progress at year-end.

On May 19, 2004, the Tribunal was directed by the Minister of Finance to inquire into and report on the availability of textile inputs produced by Canadian textile manufacturers for use in the production of apparel.

The yarn and fabric inputs subject to the inquiry were those classified under 151 statistical codes found in Chapters 51 to 60 (excluding Chapter 57) of the *Customs Tariff*. Imports of these textile inputs for use in the manufacture of apparel were valued at \$329 million in 2003, with \$39 million in duty collected. For the first six months of 2004, these amounts were \$156 million and \$17 million respectively.

The purpose of this inquiry was to obtain information on textile inputs not currently produced in Canada to assist the Minister of Finance in implementing tariff reductions with an approximate value of \$26.75 million to the apparel industry over the next three years. The Tribunal was directed to report on Canadian manufacturers' domestic and export sales of the subject textile inputs, by apparel and non-apparel uses, and on the relative value of those domestic textile sales compared with the value of imports of the same textile inputs used in Canadian apparel production. Further, where the Tribunal determined that there were sales of domestically produced textile inputs for apparel manufacture in Canada, the Tribunal was directed to provide a more detailed product description of those textile inputs, where required, and to report on the significance of those sales to domestic textile manufacturers.

The Tribunal felt that Canadian textile manufacturers were the best placed to provide the most complete and accurate information concerning the matters on which the Tribunal was directed to report. Consequently, the Tribunal focused its initial efforts on obtaining the required information from them. During this phase of the inquiry, the Tribunal sent producers' questionnaires to 81 textile manufacturers. Thirty-one firms identified themselves as suppliers of textile inputs for the production of apparel; however, only 2 textile manufacturers submitted complete responses to the questionnaire; partial responses were received from 2 additional firms.

As textile manufacturers provided very little information in response to the questionnaire, the Tribunal was forced to look at other options to fulfil its

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mandate. First, it conducted a telephone survey of importers, based on Statistics Canada data, to determine whether some subject textile inputs were available from domestic sources. Second, it reviewed available export data to determine if they could give an indication as to whether some of the subject textile inputs were made in Canada. It then conducted a review of its own textile reference files. Finally, when it became clear that these alternative approaches would not yield a significant amount of useful data, the Tribunal surveyed over 200 large apparel producers to obtain information on their purchases of the subject domestically produced textile inputs. The information gathered by the Tribunal from this source was, by its nature, less comprehensive than that which could have been provided by textile manufacturers. The Tribunal published an interim report on the results of its inquiry on October 28, 2004. The report was distributed to parties and posted on the Tribunal's Web site.

The Tribunal also sought the views of interested parties on the findings contained in its interim report. It received little new information on the textile inputs reported upon, but where it did, that information was incorporated into its final report. The Canadian Textiles Institute submitted that the information collected during the inquiry was only a "snapshot" of the situation and did not provide an accurate reflection of what textile inputs are available from Canadian producers and of the industry's capabilities. The Canadian Apparel Federation submitted that the results of the Tribunal's inquiry established that there is very little production in Canada of textile inputs for apparel end use and that Canadian apparel manufacturers use and need imported textile inputs for the vast majority of their textile input requirements.

Because of the limitations of the available data, the Tribunal was not in a position to report on certain of the items identified in the terms of reference. However, based on the best information available, the Tribunal determined that, during the period from January 1, 2003, to June 30, 2004, 37 subject textile inputs out of the 151 considered in the inquiry were available from domestic production. For 19 out of the 37 subject statistical codes, the value of domestic purchases was more than 10 percent of the value of imports in 2003 and/or the first six months of 2004. The major portions of domestic purchases, in terms of value, consisted of textiles classified in Chapter 51 (Wool and Woven Fabric), i.e. 33 percent in 2003 and 30 percent in the first six months of 2004, and in Chapter 60 (Knitted or Crocheted Fabrics), i.e. 42 percent in 2003 and 48 percent in the first six months of 2004. Duty collected on imports of the subject textile inputs under the 114 statistical codes for which there was no reported domestic production amounted to over \$17.8 million in 2003 and \$7.5 million in the first six months of 2004.

The Tribunal's report was published on December 20, 2004.

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**Availability of Textile  
Inputs Produced in  
Canada**

*MN-2004-002*

On January 10, 2005, the Tribunal was directed by the Minister of Finance to inquire into and report on the availability of fibres and yarns produced by Canadian manufacturers and on the availability of fabrics produced by Canadian manufacturers for use in the production of apparel. When imported, these textile inputs fall in Chapters 39, 40, 51, 52, 53, 54, 55, 56, 58, 59, 60 or 70 of the *Customs Tariff*. The Minister of Finance indicated that, to minimize adverse effects on current domestic production, it was his intention to retain tariffs on fibres, yarns and fabrics where domestic suppliers can demonstrate production in Canada. The Tribunal completed the preliminary information gathering phase of the inquiry on March 31, 2005, and plans to issue its report by June 30, 2005.

On January 20, 2005, a notice of commencement of inquiry was sent to more than 150 firms with an invitation to complete a producers' questionnaire.

**Global Safeguard  
Inquiries  
Commenced in  
the Fiscal Year**

The Tribunal commenced two global safeguard inquiries during the fiscal year.

**Bicycles and Finished  
Painted Bicycle  
Frames**

*GS-2004-001*

On November 22, 2004, the Canadian Bicycle Manufacturers Association (CBMA) submitted a complaint to the Tribunal requesting that it initiate a global safeguard inquiry into the importation of bicycles, assembled or unassembled, with a wheel diameter greater than 15 inches or 38.1 centimetres, and finished painted bicycle frames, assembled or unassembled.

On January 11, 2005, upon consideration of the complaint and the additional information provided by the CBMA, the Tribunal determined that the complaint was properly documented.

On February 10, 2005, the Tribunal commenced a global safeguard inquiry. In its statement of reasons, the Tribunal noted that the complaint alleged threat of injury to the domestic producers of bicycles by imported finished painted bicycle frames. It did not allege injury or threat of injury to the domestic producers of finished painted bicycle frames by imported finished painted bicycle frames. The Tribunal indicated that, in these circumstances, it only had the jurisdiction to inquire into the threat of injury to the production of bicycles by imported finished painted frames if bicycles are "like or directly competitive goods" in relation to finished painted bicycle frames. The Tribunal signalled that it would be seeking submissions on this issue.

In a letter dated February 17, 2005, the CBMA expressed its view that bicycles and finished painted bicycle frames were not "like goods". In its



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***Finished Painted  
Bicycle Frames***

GS-2004-002

response of February 24, 2005, the Tribunal then indicated that, if the CBMA wished the Tribunal to inquire into whether imported finished painted bicycle frames had caused or threatened to cause serious injury to domestic producers of finished painted bicycle frames, it would have to file a properly documented complaint on that matter, including information and data to support its allegations of injury to domestic producers of finished painted bicycle frames.

On March 3, 2005, pursuant to subsection 23(1) of the *CITT Act*, the CBMA submitted a complaint requesting that the Tribunal initiate a global safeguard inquiry into the importation of finished painted bicycle frames, assembled or unassembled.

On March 24, 2005, the Tribunal determined, pursuant to subsection 25(1) of the *CITT Act*, that the complaint was properly documented and was satisfied that the conditions listed in subsection 26(1) were present. Therefore, on the same day, the Tribunal commenced an inquiry into the complaint.

***Decision to Combine  
Safeguard Inquiries***

***Bicycles and Finished  
Painted Bicycle  
Frames***

GS-2004-001 and  
GS-2004-002

On March 24, 2005, the Tribunal decided, pursuant to rule 6.1 of the *Rules*, to combine the proceedings of Safeguard Inquiry No. GS-2004-002 with those of Safeguard Inquiry No. GS-2004-001.

The purpose of the inquiries is to determine whether the goods subject to the inquiries are being imported into Canada from all sources in such increased quantities 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.



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# 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 attempt to resolve the issue first with the government institution responsible for the procurement. If this process is not successful or a supplier wishes 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. Complainants may utilize the on-line procurement complaint form that can be found on the Tribunal's Web site.

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 the 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 and a copy of the complaint itself. 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 sent a copy of the GIR and then have the opportunity to submit comments. Any comments made are forwarded to the government institution and other parties to the inquiry.

Copies of any other submissions or reports prepared for the inquiry are also circulated to all parties for their comments. Once this phase of the inquiry is completed, the Tribunal reviews the information collected and decides if a public hearing is necessary or if the case can be decided on the basis of the information on the record.

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 re-tendering, re-evaluating or providing compensation). 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.

The Tribunal may also award reasonable costs to the complainant or the responding government institution depending on the nature and circumstances of the case. The Tribunal publishes, on its Web site, a guideline for further streamlining the review process by recommending standard complaint costs to be awarded to either side, depending on the relative complexity of the case.

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### Summary of Activities

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	2003-2004	2004-2005
<b>NUMBER OF COMPLAINTS</b>		
Carried Over from Previous Fiscal Year	15	11
Received in Fiscal Year	83	62
Remanded	3	1
<b>Total</b>	<b>101</b>	<b>74</b>
<b>CASES RESOLVED</b>		
Withdrawn or Resolved by the Parties	8	6
Abandoned While Filing	-	3
<b>Subtotal</b>	<b>8</b>	<b>9</b>
<b>INQUIRIES NOT INITIATED</b>		
Lack of Jurisdiction	7	2
Late or Improper Filing	14	16
No Valid Basis/No Reasonable Indication of a Breach/Premature	27	20
<b>Subtotal</b>	<b>48</b>	<b>38</b>
<b>INQUIRY RESULTS</b>		
Complaints Dismissed	3	-
Complaints Not Valid	14	6
Complaints Valid or Valid in Part	15	10
Remand Decisions	2	3
<b>Subtotal</b>	<b>34</b>	<b>19</b>
<b>OUTSTANDING AT END OF FISCAL YEAR</b>	<b>11</b>	<b>8</b>

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**Summary of  
Selected  
Determinations**

In 2004-2005, the Department of Public Works and Government Services (PWGSC) alone issued approximately 15,403 contracts valued at between \$25,000 and \$99.9 million, for a total value of \$11 billion. The nine determinations relating to complaints received in the fiscal year represented contracts valued at \$276.6 million, which represents at the most 2.5 percent of the total value of contracts issued by PWGSC in 2004-2005 or 0.05 percent of the total number of contracts issued.

During the fiscal year, the Tribunal issued 19 written determinations of its findings and recommendations, which related to 16 procurement complaints and 3 decisions that had been remanded to the Tribunal by the Federal Court of Appeal. In 10 of the 16 non-remand written determinations, the complaints were determined to be valid or valid in part. Eight cases were in progress or being filed at year-end. Table 1 at the end of this chapter summarizes these activities.

Of the cases investigated 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.

***Beals, Lalonde &  
Associates***

*PR-2004-009*

*Determination:  
Complaint valid  
(July 27, 2004)*

The Tribunal made a determination with respect to a complaint filed by Beals, Lalonde & Associates (Beals) concerning a procurement by the Department of Justice (DOJ) for a summative evaluation of the DOJ's Youth Justice Renewal Initiative.

Beals submitted that its proposal was not evaluated in accordance with the criteria contained in the Request for Proposal (RFP). More specifically, it alleged that the rating grid used by the evaluation team introduced rating criteria not included in the RFP.

Beals requested that it be compensated for the time and effort that it expended in preparing its proposal. It also requested that a directive be issued to all contracting officers that tender documents must clearly identify the criteria to be used in the evaluation of bids and the methods of weighting and evaluating the criteria, as required by the *AIT*.

Having examined the evidence presented by the parties and considered the provisions of the *AIT*, the Tribunal determined that the complaint was valid. The Tribunal found that, with the exception of rated criterion 8.2.1, the rating grid did not deviate from what the Tribunal would reasonably expect a bidder to anticipate regarding each criterion. In the case of rated criterion 8.2.1, the Tribunal found that the rating grid provided additional information that was not

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evident when compared to the contents of the RFP. The Tribunal found that Beals did not suffer prejudice as a result of the DOJ's breach of the *AIT*. The Tribunal also found that the evidence did not indicate that the DOJ was acting in bad faith and, consequently, the Tribunal did not recommend a remedy in this case. The Tribunal believed that its decision would serve as sufficient notice to the DOJ regarding clearly identified evaluation criteria. The Tribunal awarded Beals its reasonable costs incurred in preparing and proceeding with the complaint, which costs were to be paid by the DOJ. The Tribunal's indication of the level of complexity for this complaint was Level 1, and its indication of the amount of the cost award was \$1,000.

**Danbar Enterprises**

*PR-2004-036*

*Determination:  
Complaint not valid  
(January 18, 2005)*

The Tribunal made a determination with respect to a complaint filed by Danbar Enterprises (Danbar) concerning a procurement by PWGSC on behalf of the Royal Canadian Mounted Police (RCMP) for the supply of vehicular closed-circuit video equipment (VCCVE).

Danbar submitted that PWGSC and the RCMP biased certain technical specifications in the Request for Standing Offer (RFSO) in favour of Mobile-Vision, Inc.'s System 7™, thereby unjustly limiting the bidding process. Specifically, these requirements were that any system proposed by a supplier must include a tape counter, a two-key system to secure the VCR vault, a flashing alphanumeric stamp on the video display, automatic illumination intensity control for the overhead console display, camera zoom control located in the overhead console and the automatic shut-off of the speaker if the in-car microphone is activated. Danbar requested that the RFSO be modified by changing the disputed mandatory requirements to desirable options.

Having examined the evidence presented by the parties and considered the provisions of the *AIT*, the Tribunal determined that the complaint was not valid. The Tribunal found that, while it would have been preferable if the specifications had been drafted in terms of performance criteria rather than descriptive or design criteria, the evidence did not indicate any bias in the minds of PWGSC or RCMP officials in favour of Mobile-Vision, Inc.'s System 7™ at the time when the specifications were prepared. The Tribunal did not consider that Danbar was unjustifiably excluded from tendering. The Tribunal awarded PWGSC its reasonable costs incurred in responding to the complaint, which costs were to be paid by Danbar. The Tribunal's preliminary indication of the level of complexity for this complaint was Level 2, and its preliminary indication of the amount of the cost award was \$2,400.

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**CAE Inc.**  
*PR-2004-007*  
*Determination:*  
*Complaint not valid*  
*(September 7, 2004)*

The Tribunal made a determination with respect to a complaint filed by CAE Inc. (CAE) concerning a procurement by PWGSC on behalf of the Department of National Defence (DND) for the provision of a CF-18 Advanced Distributed Combat Training System.

CAE submitted that PWGSC and DND failed to ensure that the tendering procedures gave equal access to the procurement and were applied in a non-discriminatory manner, in violation of the applicable trade agreements.

CAE requested that the Tribunal recommend that PWGSC terminate the contract with Bombardier Inc. (Bombardier) and award the contract to CAE. In the alternative, CAE requested that the Tribunal recommend that the procurement process be terminated and that a new, open, fair and transparent procurement process that fully accords with the trade agreements be undertaken. In the further alternative, CAE requested that the Tribunal recommend that PWGSC compensate CAE for its bid preparation costs and its lost profit. In addition, CAE requested its reasonable costs incurred in preparing and proceeding with the complaint.

Having examined the evidence presented by the parties and considered the provisions of *NAFTA*, the *AIT* and the *AGP*, the Tribunal determined that the complaint was not valid.

The Tribunal found that, with respect to CAE's allegation that there was a reasonable apprehension of bias as a result of the relationship of one of the evaluators with Bombardier, CAE should have raised this basis for a complaint at an earlier stage of the process and was out of time to complain, and, as such, the Tribunal did not have jurisdiction to inquire into this ground of complaint. Regarding CAE's allegation that two of the evaluators formed a preference for the Bombardier product as a result of their pre-RFP visits to the bidders, which resulted in bias in the evaluation process, the Tribunal found that this ground of complaint was not valid, since neither the documents nor the evidence indicated any bias. With respect to CAE's allegation that there was bias in the evaluation process because these two evaluators had a greater influence regarding the pre-RFP demonstrations than the other evaluators who had not attended those demonstrations, the Tribunal found that CAE should reasonably have known at the time the RFP was issued that the evaluators who attended the pre-RFP demonstrations could be expected to have greater influence in this context. Accordingly, the Tribunal found that this allegation was not filed within the time frame required by the *Canadian International Trade Tribunal Procurement Inquiry Regulations* and, therefore, it did not have jurisdiction to inquire into this ground of complaint. Regarding CAE's allegation that a number of comments by two evaluators in their evaluators' notes were evidence of actual bias in scoring

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**Judicial Review of  
Procurement  
Decisions**

the bids, the Tribunal found this ground of complaint not valid, as they did not necessarily indicate bias on the part of the two evaluators. With respect to CAE's allegation that the report of the HFE Group might be biased for reasons indicated in CAE's confidential argument and that the report of the HFE Group was used improperly by the evaluators, the Tribunal found that these grounds of complaint were not valid, since, first, the evidence did not indicate actual bias and that the circumstances described in the allegation merely reflected normal commercial behaviour and, secondly, since the evidence did not indicate that PWGSC and DND used the report of the HFE Groups in a manner that was inconsistent with the RFP.

The Tribunal awarded PWGSC its reasonable costs incurred in responding to the complaint, which costs were to be paid by CAE. The Tribunal's indication of the level of complexity for this complaint was Level 3, and its indication of the amount of the cost award was \$4,100.

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



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**TABLE 1****Disposition of Procurement Complaints**

<b>File No.</b>	<b>Complainant</b>	<b>Date of Receipt of Complaint</b>	<b>Status/Decision</b>
PR-2002-069R	EDS Canada Ltd.	March 17, 2003	Order issued on August 5, 2004
PR-2003-002R	EDUCOM TS Inc. and RAND IT Solutions	April 7, 2003	Order issued on July 26, 2004
PR-2003-005R	Ready John Inc.	April 9, 2003	Decision rendered on July 20, 2004 Complaint valid
PR-2003-064	Winchester Division – Olin Corporation	November 19, 2003	Decision rendered on April 2, 2004 Complaint not valid
PR-2003-070	CSI Consulting Inc.	December 19, 2003	Decision rendered on May 3, 2004 Complaint valid in part
PR-2003-073	Canadyne Technologies Inc.	January 16, 2004	Decision rendered on April 14, 2004 Complaint valid
PR-2003-075	Fleetway Inc.	January 22, 2004	Decision rendered on April 21, 2004 Complaint valid
PR-2003-077	StenoTran Services Inc.	February 11, 2004	Decision rendered on June 28, 2004 Complaint valid in part
PR-2003-078	Laerdal Medical Canada Ltd.	February 17, 2004	Decision rendered on May 17, 2004 Complaint valid in part
PR-2003-079	Foundry Networks Inc.	February 19, 2004	Complaint withdrawn
PR-2003-082	Bosik Vehicle Barriers Ltd.	March 22, 2004	Decision rendered on May 6, 2004 Complaint not valid
PR-2003-083	Bell Helicopters Textron Canada Limited	March 26, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-001	CVDS Inc.	April 1, 2004	Decision rendered on June 30, 2004 Complaint not valid
PR-2004-002	International Infrared Camera Sales & Leasing Ltd.	April 7, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-003	Marathon Management Company (division of Marathon Watch Company Ltd.)	April 12, 2004	Complaint withdrawn
PR-2004-004	Bell Mobility	April 15, 2004	Decision rendered on July 14, 2004 Complaint not valid
PR-2004-005	International Infrared Camera Sales & Leasing Ltd.	April 16, 2004	Not accepted for inquiry, late filing
PR-2004-006	Marathon Management Company (division of Marathon Watch Company Ltd.)	April 20, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-007	CAE Inc.	April 22, 2004	Decision rendered on September 7, 2004 Complaint not valid

## Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2004-008	CAE Inc.	April 23, 2004	Decision rendered on September 7, 2004 Complaint valid in part
PR-2004-009	Beals, Lalonde & Associates	April 28, 2004	Decision rendered on July 27, 2004 Complaint valid
PR-2004-010	L-3 Communications Spar Aerospace	May 14, 2004	Not accepted for inquiry, late filing
PR-2004-011	Winnipeg Audio-Visual Services Inc.	May 20, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-012	Stratos Wireless Inc.	May 20, 2004	Complaint withdrawn
PR-2004-013	Flag Connection Inc.	May 31, 2004	Not accepted for inquiry, late filing
PR-2004-014	J. Molson & Associates	June 1, 2004	Decision rendered on August 24, 2004 Complaint valid
PR-2004-015	Centre for Public Management Inc.	June 14, 2004	Not accepted for inquiry, late filing
PR-2004-016	Roger F.X. Marentette	June 21, 2004	Not accepted for inquiry, late filing
PR-2004-017	Advanced Presentation Products Inc.	June 24, 2004	Abandoned while filing
PR-2004-018	Med-Eng Systems Inc.	July 13, 2004	Not accepted for inquiry, premature
PR-2004-019	Dynamic Maintenance Ltd.	July 16, 2004	Not accepted for inquiry, premature
PR-2004-020	Good Vibrations Engineering Ltd.	July 19, 2004	Not accepted for inquiry, not a designated contract
PR-2004-021	Cantox Environmental Inc.	July 21, 2004	Not accepted for inquiry, premature
PR-2004-022	Sterling Resources International Company	July 21, 2004	Not accepted for inquiry, premature
PR-2004-023	DAC Aviation International Ltée	July 22, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-024	Genesis Communications Inc.	July 28, 2004	Not accepted for inquiry, late filing
PR-2004-025	Grant E. Cameron	August 4, 2004	Complaint withdrawn
PR-2004-026	Michel Drapeau	August 6, 2004	Not accepted for inquiry, premature
PR-2004-027	Market Research Associates Ltd.	August 10, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-028	Sallie & Associates Consultants	August 11, 2004	Not accepted for inquiry, late filing
PR-2004-029	Synerworks Research Metatek Inc.	August 23, 2004	Not accepted for inquiry, late filing
PR-2004-030	Brymark Promotions Inc.	August 25, 2004	Not accepted for inquiry, premature
PR-2004-031	Sovereign Sedan and Limousine	August 25, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-032	KnowTech Solutions Inc.	August 26, 2004	Not accepted for inquiry, no reasonable indication of a breach

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## Disposition of Procurement Complaints (cont'd)

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File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2004-033	Brymark Promotions Inc.	September 2, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-034	DJC Security Design	September 29, 2004	Not accepted for inquiry, late filing
PR-2004-035	Sweetman Consulting Associates	October 7, 2004	Not accepted for inquiry, premature
PR-2004-036	DANBAR Enterprises	October 20, 2004	Decision rendered on January 18, 2005 Complaint not valid
PR-2004-037	Ville Marie Holding Limited	October 22, 2004	Not accepted for inquiry, late filing
PR-2004-038	TireeRankin JV	October 29, 2004	Decision rendered on January 27, 2005 Complaint valid
PR-2004-039	Trust Business Systems	November 9, 2004	Not accepted for inquiry, late filing
PR-2004-040	St. Joseph Corporation	November 15, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-041	Agusta Westland International Limited	November 17, 2004	Not accepted for inquiry, late filing
PR-2004-042	Canal Marine, Division of Canadian Shipbuilding & Engineering Ltd.	November 23, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-043	Barada Consulting Inc.	November 26, 2004	Not accepted for inquiry, no jurisdiction
PR-2004-044	Roger F. X. Marentette	November 30, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-045	Trust Business Systems	December 16, 2004	Complaint withdrawn
PR-2004-046	Veritaaq Technology House Inc.	December 23, 2004	Decision rendered on March 23, 2005 Complaint valid in part
PR-2004-047	Interfax Systems Inc.	January 14, 2005	Not accepted for inquiry, late filing
PR-2004-048	Keystone Supplies Company	January 21, 2005	Abandoned while filing
PR-2004-049	Sallie & Associates Consultants	January 24, 2005	Not accepted for inquiry, late filing
PR-2004-050	Med-Emerg International Inc.	January 31, 2005	Accepted for inquiry, case in progress
PR-2004-051	ProSpect Scientific	February 11, 2005	Accepted for inquiry, case in progress
PR-2004-052	Everest VIT, Inc.	February 11, 2005	Accepted for inquiry, case in progress
PR-2004-053	SIM Office Products	February 15, 2005	Abandoned while filing
PR-2004-054	Envoy Relocation Services	February 18, 2005	Accepted for inquiry, case in progress
PR-2004-055	GMA Cover Corp.	March 1, 2005	Not accepted for inquiry, no reasonable indication of a breach
PR-2004-056	Interfax Systems Inc.	March 18, 2005	Not accepted for inquiry, late filing
PR-2004-057	Shaddy International Marketing	March 21, 2005	Not accepted for inquiry, late filing
PR-2004-058	Trust Business Systems	March 22, 2005	Accepted for inquiry, case in progress

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## Disposition of Procurement Complaints (cont'd)

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<b>File No.</b>	<b>Complainant</b>	<b>Date of Receipt of Complaint</b>	<b>Status/Decision</b>
PR-2004-059	Trust Business Systems	March 22, 2005	Accepted for inquiry, case in progress
PR-2004-060	Trust Business Systems	March 22, 2005	Complaint withdrawn
PR-2004-061	MTS All Stream/Call Net/Telus	March 23, 2005	Accepted for inquiry, case in progress
PR-2004-062	Albatross Aviation Services	March 30, 2005	Being filed

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**TABLE 2****Procurement Cases Before the Federal Court of Appeal**

<b>File No.</b>	<b>Complainant</b>	<b>Applicant</b>	<b>File No./Status</b>
PR-2001-067R	Georgian College of Applied Arts and Technology	Attorney General of Canada	A—561—03 Application allowed (September 8, 2004)
PR-2002-053	Entreprise Marissa Inc.	Entreprise Marissa Inc.	A—101—03 Application dismissed (May 19, 2004)
PR-2002-060	Polaris Inflatable Boats (Canada) Ltd.	Attorney General of Canada	A—334—03 Application allowed (April 4, 2004)
PR-2003-005	Ready John Inc.	Ready John Inc./Department of Public Works and Government Services	A—372—03 Application allowed (June 8, 2004) A—433—03 Application dismissed (June 8, 2004)
PR-2003-007	Port Weller Dry Docks, a division of Canada Shipbuilding & Engineering Ltd.	Attorney General of Canada	A—458—03 Application allowed (April 16, 2004)
PR-2003-015	Patton Aircraft & Industries Limited	Attorney General of Canada	A—390—03 Application discontinued (March 26, 2004)
PR-2003-050	Advanced Business Interiors Inc.	Advanced Business Interiors Inc.	A—544—03 Application dismissed (June 11, 2004)
PR-2003-051	Marcomm Inc.	Marcomm Inc.	A—139—04 Application discontinued (June 14, 2004)
PR-2003-053	Haworth Ltd.	Haworth Ltd.	A—545—03 Application dismissed (June 11, 2004)
PR-2003-055	K-W Leather Products Ltd.	Attorney General of Canada	A—601—03 Application discontinued (April 20, 2004)
PR-2003-064	Winchester Division—Olin Corporation	Winchester Division—Olin Corporation	A—232—04 Application dismissed (March 10, 2005)
PR-2003-070	CSI Consulting Inc.	Attorney General of Canada	A—299—04
PR-2003-073	Canadyne Technologies Inc.	Attorney General of Canada	A—267—04
PR-2003-075	Fleetway Inc. and Lancaster Aviation Inc.	Attorney General of Canada	A—274—04 Application discontinued (October 22, 2004)
PR-2004-013	Flag Connection Inc.	Flag Connection Inc.	A—358—04

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## Procurement Cases Before the Federal Court of Appeal (cont'd)

File No.	Complainant	Applicant	File No./Status
PR-2004-037	Ville Marie Holding Limited	Ville Marie Holding Limited	A—684—04 Application withdrawn (January 28, 2005)
PR-2004-054	Envoy Relocation Services	Envoy Relocation Services	A—134—05

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# CHAPTER VII

## TEXTILE REFERENCE

### Introduction

Pursuant to a reference from the Minister of Finance dated July 6, 1994, as last amended on January 13, 2004, the Tribunal is 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, that would maximize net economic gains to Canada.

The terms of reference call for the Tribunal to provide to the Minister of Finance an annual status report on the investigation process. This chapter reports on the Tribunal's activities under the textile reference. Since 2003, it also serves to meet the requirement of an annual status report.

### Scope of the Reference

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*. 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

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	<p>recommendation could be for tariff relief for either a specific or an indeterminate period of time.</p>
<p><b>Process</b></p>	<p>Domestic producers seeking tariff relief must file a request with the Tribunal. Along with their request, producers must file either samples of the textile input for which tariff relief is being sought or a National Customs Ruling from the CBSA 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><b>Filing and Notification of a Request</b></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 the start of an investigation 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><b>Investigations</b></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 International Trade, the Department of Industry, the Department of Finance and the CBSA. The notice is also published in the <i>Canada Gazette</i>.</p> <p>Interested parties include all persons whose 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.</p> <p>To prepare a staff investigation report, the Tribunal's staff gathers information through such means as questionnaires and plant visits. Information is obtained from the requester and interested parties to determine whether the tariff relief sought will maximize net economic gains for Canada.</p>



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	<p>In most cases, 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. In cases where the written record is not sufficient to dispose of the matter, a public hearing is held.</p>
	<p>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, agency or other party.</p>
<p><b>Recommendations to the Minister of Finance</b></p>	<p>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.</p>
<p><b>Request for Review</b></p>	<p>Where the Minister of Finance has made an order for tariff relief pursuant to a recommendation of the Tribunal, certain domestic producers may ask 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 the request.</p>
<p><b>Review on Expiry</b></p>	<p>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.</p>

**Summary of Activities**

**New Requests**

	2003-2004	2004-2005
<b>Requests</b>		
Received	4	1
Withdrawn	1	1
Awaiting Initiation of Investigation	3	1
Investigations Completed During the Year	8	3
Investigations in Progress at Year-end	1	0
<b>Recommendations to Minister of Finance</b>		
Tariff Relief	7	3
No Tariff Relief	1	0
	<b>8</b>	<b>3</b>
<b>Reports to Minister of Finance</b>		
<b>Cumulative Totals (since 1994)</b>		
Requests Received	174	175
<b>Recommendations to Minister of Finance</b>		
Tariff Relief	101	104
No Tariff Relief	49	49

During the fiscal year, the Tribunal issued three reports to the Minister of Finance that related to three requests for tariff relief. At year-end, a decision to initiate investigation was pending with regard to one request. Table 1 at the end of this chapter summarizes these activities.

The Tribunal also conducted one investigation for the purpose of reconsidering a previously issued recommendation for tariff relief. Table 2 provides information on this investigation.

**Effects**

The implementation of Tribunal recommendations is made by adding new tariff items to the *Customs Tariff* or, occasionally, by issuing specific customs duty remission orders. Table 3 provides a summary of recommendations currently implemented by the Government. During the period from January 1 to December 31, 2004, the Tribunal estimates that these tariff items and remission orders covered imports worth about \$191 million and provided tariff relief worth about \$24 million; for the comparable period in 2003, these amounts were about \$195 million and about \$25 million respectively.

As stated earlier, textile inputs on which tariff relief may be requested are limited to 12 chapters of the *Customs Tariff*. From January 1 to

December 31, 2004, tariff relief principally affected textile inputs falling in 3 chapters: Chapter 51 (“Wool, fine or coarse animal hair; horsehair yarn and woven fabric”); Chapter 52 (“Cotton”); and Chapter 54 (“Man-made filaments”). The percentage of total imports accounted for by the imports benefiting from tariff relief, falling in these 12 chapters, ranged from 0 to 26 percent. Overall, slightly less than 1 percent of total imports falling in the 12 chapters benefit from tariff relief. The following table provides, for calendar year 2004, a distribution of the imports benefiting from tariff relief, by *Customs Tariff* chapter.

### Distribution of Imports by *Customs Tariff* Chapter

Chapter	Percentage
39	0.01
40	0.00
51	25.66
52	10.07
53	2.41
54	5.13
55	2.37
56	0.35
58	2.56
59	1.01
60	1.62
70	<u>0.15</u>
Weighted Average	<u>0.79</u>

Source: Statistics Canada.

#### Summary of Selected Recommendations

A summary of two of the Tribunal’s recommendations issued during the fiscal year follows.

#### ***Sunshine Mills Inc.***

*TR-2003-002*

*Recommendation:  
Indeterminate tariff relief  
(August 6, 2004)*

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 cotton yarn (other than sewing thread), single, solely of cotton, combed, not put up for retail sale, ring-spun, unbleached, measuring less than 166 decitex, of subheading No. 5205.24, 5205.26 or 5205.27, for use in the manufacture of woven fabrics. The Tribunal further recommended that the tariff relief be retroactive to October 2, 2003.

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The Tribunal noted that no domestic yarn producer, other than Atlantic Fine Yarns Inc. (Atlantic), opposed Sunshine Mills Inc.'s (Sunshine) request for tariff relief. Although Atlantic indicated that it could convert part of its production capacity to produce identical or substitutable yarns, it provided no commercial information on the yarns that could be produced. Moreover, it provided no evidence that it had taken action to produce identical or substitutable yarns. In this regard, the Tribunal noted that Atlantic admitted that it was "not able to offer weaving yarns in ring spun carded or combed" and that it had "no intentions of producing" fine count, combed, ring-spun, 100 percent cotton yarns. The Tribunal was of the view that production of such yarns at Atlantic was not imminent and that Atlantic was not at that time in a position to supply commercial quantities of identical or substitutable yarns.

Regarding Atlantic's statement that Sunshine was unable to meet the standard commercial conditions that apply to all its customers, thereby preventing Atlantic from producing identical or substitutable yarns in Canada, the Tribunal was of the view that, in all likelihood, some form of commercially acceptable alternative arrangement could have been established by Atlantic and Sunshine. In this regard, the Tribunal noted that Sunshine had clearly concluded satisfactory credit arrangements with foreign suppliers to obtain the subject yarn.

Although the government would forgo the corresponding duty revenues, which were estimated to be over \$750,000 annually, prior to any duty drawback, the Tribunal did not believe that there were likely to be any direct commercial costs to Atlantic associated with the removal of the customs duty on the importation of the subject yarn. On the basis of the information provided to the Tribunal, tariff relief would provide yearly benefits to users of the subject yarn, particularly Sunshine, in the form of reduced costs, which could translate into an improvement of their competitive position in the Canadian and U.S. markets, as well as benefits in terms of employment in New Brunswick, and lower prices for downstream users and consumers. In summary, the Tribunal found that the tariff relief requested by Sunshine would provide net economic gains for Canada.

***Ballin Inc.***

*TR-2002-010A*

*Recommendation:  
Indeterminate tariff relief  
(August 10, 2004)*

The Tribunal recommended to the Minister of Finance that tariff relief be granted as soon as possible, for an indeterminate period of time, on importations, from all countries, of woven fabrics of viscose rayon staple fibres mixed mainly or solely with polyester filaments, polyester staple fibres and elastomeric monofilaments, dyed or of yarns of different colours, of a weight of 200 g/m<sup>2</sup> or more, with a value for duty of \$6/m<sup>2</sup> or more, indexed annually to compensate for inflation, of subheading No. 5516.22 or 5516.23, for use in the manufacture of men's dress trousers.

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This recommendation was further to a request from Ballin Inc. (Ballin) that the Tribunal reconsider its recommendation made to the Minister of Finance on January 15, 2004 (Request No. TR-2002-010), with respect to the goods described above, but with a different value for duty (\$10/m<sup>2</sup> rather than \$6/m<sup>2</sup>). Ballin made its request for reconsideration because, after the issuance of the Tribunal's recommendation, it reviewed the information that it had submitted to the Tribunal and discovered that it contained errors.

Based on its examination of the record, the Tribunal was of the view that neither Consoltex Inc. (Consoltex) nor Doubletex produced any fabrics that were substitutable for the subject fabrics and that a \$6/m<sup>2</sup> minimum value-for-duty parameter would unlikely have an economic impact on domestic producers. Although some of Consoltex's fabrics, i.e. the polyester/ rayon/ lycra blends, had a similar technical description to that of the subject fabrics, it was evident to the Tribunal that they had not undergone the finishing processes that distinguished the subject fabrics from those of Consoltex. Moreover, the only end product that was produced with the subject fabrics and sold by Ballin was men's trousers, whereas Consoltex's polyester / rayon/ lycra fabrics were produced mainly for the ladies' wear market, although it was capable of producing fabrics for men's casual pants and jackets. In its previous investigation, the Tribunal also concluded that Doubletex had failed to provide convincing evidence to support a conclusion of imminent production or of potential to supply a fabric according to Ballin's requirements and in adequate commercial quantities. The Tribunal noted that Doubletex did not provide additional information concerning the reconsideration of the Tribunal's recommendation to the Minister of Finance and did not participate at the hearing that was called by the Tribunal.

The Tribunal noted that Ballin used the subject fabrics to produce men's high-end dress trousers and did not intend to produce men's shorts or women's clothing with the subject fabrics in the near future. Consequently, the Tribunal had information on which to base an estimate of the net economic benefit only with respect to men's dress trousers and not other types of apparel. In this regard, the Tribunal also took note of Consoltex's concerns with respect to the need to narrow the product description as much as possible. Therefore, the Tribunal was of the view that the end-use provision of the product description should be restricted to men's dress trousers.

Based on the new information provided by Ballin, it was the Tribunal's view that tariff relief would provide significant yearly benefits of at least \$50,000 to the apparel industry and, potentially, to consumers. This level of tariff relief would provide benefits to users of the subject fabrics in the form of reduced costs, which could translate into an improvement of their competitive position in the Canadian and U.S. markets, as well as benefits to the consumer in terms of lower prices. As

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the Tribunal was of the view that there were no domestic fabrics identical to or substitutable for the subject fabrics, the Tribunal did not believe that, with a specified floor price of \$6/m<sup>2</sup>, indexed annually to compensate for inflation, coupled with a narrowing of the end-use provision to men's dress trousers, there would likely be any direct commercial costs associated with the removal of the customs duty on the importation of the subject fabrics. The only cost was the tariff revenues forgone by the government. In summary, the Tribunal found that the tariff relief would provide net economic gains to Canada.

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## TABLE 1

### Disposition of Requests for Tariff Relief

Request No.	Requester	Textile Input	Date of Disposition	Status/Recommendations
TR-2002-009	Peerless Clothing Inc.	Fabric	August 26, 2004	File closed
TR-2003-002	Sunshine Mills Inc.	Yarn	August 6, 2004	Indeterminate tariff relief
TR-2003-003	Peeless Clothing Inc.	Nonwoven	August 30, 2004	Indeterminate tariff relief
TR-2003-004	Peeless Clothing Inc.	Fabric	August 25, 2004	Indeterminate tariff relief
TR-2004-001	Tricots Liesse (1983) Inc.	Yarn		Not yet initiated

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## TABLE 2

### Disposition of a Request for Reconsideration

Review No.	Original Request No.	Textile Input	Requester	Date of Disposition	Status/Recommendations
TR-2002-010A	TR-2002-010	Fabric	Ballin Inc.	August 10, 2004	Recommendation of January 15, 2004 (TR-2002-010) reaffirmed with amendments



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**TABLE 3****Tariff Relief Recommendations in Place**

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<b>Request No./ Review No.</b>	<b>Expiry No. (Original Request No.)</b>	<b>Requester/Textile Input</b>	<b>Tariff Item No./Order in Council</b>	<b>Duration</b>
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

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## Recommendations in Place (cont'd)

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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 6005.34.20	Indeterminate
TR-95-057 and TR-95-058		Doubletex	5407.51.10 5407.61.95 5407.61.96 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

## 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-95-061		Camp Mate Limited	6005.31.20 6005.32.20 6005.33.20 6005.34.30	Indeterminate
TR-95-064 and TR-95-065		Lady Americana Sleep Products Inc. and el ran Furniture Ltd.	6005.34.60 6005.44.20	Indeterminate
TR-96-003		Venture III Industries Inc.	5407.61.95 5407.61.96	Indeterminate
TR-96-004		Acton International Inc.	5906.99.21	Indeterminate
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 6005.31.30 6005.31.40 6005.32.30 6005.32.40 6005.33.30 6005.33.40 6005.34.40 6005.34.50	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

## 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-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.	6006.23.10	Indeterminate
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.	6006.22.20	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

## 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-2000-006		Doubletex	5512.11.30 5512.19.20 5513.11.20 5513.12.10 5513.13.10 5513.19.10 5514.11.10 5514.12.10 5514.13.10 5514.19.10 9997.00.00	Indeterminate
TR-2000-007 and TR-2000-008		Scapa Tapes North America Ltd.	5208.21.50 5208.31.20	Indeterminate
TR-2001-001		Gibson Textile Dyers	5512.29.10	Indeterminate
TR-2001-002		Beco Industries Ltd.	5513.41.30	Indeterminate
TR-2002-001		Richlu Manufacturing Ltd.	5209.39.10	Indeterminate
TR-2002-002		Peerless Clothing Inc.	5602.10.20	Indeterminate
TR-2002-006		C.S. Brooks Inc.	5407.91.20 5513.11.30	Indeterminate
TR-2002-007		Peerless Clothing Inc.	5408.22.50 5408.23.30	Indeterminate
TR-2002-008		Tribal Sportswear Inc.	5515.11.20	Indeterminate
TR-2002-010/010A		Ballin Inc.	5516.22.10 5516.23.40	Indeterminate
TR-2003-001		Tribal Sportswear Inc.	5208.39.20 5209.32.40 5209.39.20 5209.52.10 5209.59.10	Indeterminate
TR-2003-002		Sunshine Mills Inc.	5205.24.30 5205.26.30 5205.27.30	Indeterminate
TR-2003-003		Peerless Clothing Inc.	5603.92.40	Indeterminate
TR-2003-004		Peerless Clothing Inc.	5903.90.23	Indeterminate
TA-98-001	TE-97-004 (TR-95-009)	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

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## Recommendations in Place (cont'd)

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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-2003-001	TE-2003-001 TE-2001-001 TE-98-002 (TR-94-002 and TR-94-002A)	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	Indeterminate

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## PUBLICATIONS

<b>April 2004</b>	Canadian Imports Affected by Anti-dumping and Countervailing Measures 1995-2003
<b>June 2004</b>	Annual Report for the Fiscal Year Ending March 31, 2004
<b>October 2004</b>	Departmental Performance Report for the Period Ending March 31, 2004

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