
ANNUAL REPORT

**FOR THE FISCAL YEAR ENDING
MARCH 31, 2003**

**Canadian
International
Trade Tribunal**

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June 18, 2003

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

Dear Minister:

I have the honour of transmitting to you, for tabling in the House of Commons, pursuant to section 41 of the *Canadian International Trade Tribunal Act*, the Tribunal's annual report for the fiscal year ending March 31, 2003.

Each year since 1995, the Tribunal has submitted to the Minister of Finance a separate status report on the textile reference covering the period from October 1 to September 30. I am now of the view that it would be more useful and cost effective to provide the annual status report on the textile reference as part of the Tribunal's annual report. The main information contained in previous textile status reports is now included in the Tribunal's annual report. This year's annual report will therefore be the sole vehicle for reporting to you on the Tribunal's activities under the reference. As a result of this transition, this year's annual report covers the Tribunal's activities in the textile reference area for the period from October 1, 2001, to March 31, 2003.

Yours sincerely,

Pierre Gosselin

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CHAPTER I

HIGHLIGHTS

Members

On December 15, 2002, Mr. Pierre Gosselin was re-appointed to the position of Chairperson of the Canadian International Trade Tribunal (the Tribunal). Prior to his appointment in 1997, he occupied a number of senior positions in the departments of Foreign Affairs and International Trade, Industry and Finance dealing with trade policy and trade relations. He served as Minister and Alternate Permanent Representative to the Canadian Mission to the GATT/WTO in Geneva. While in Geneva, he was a senior member of Canada's negotiating team for the Uruguay Round of Trade Negotiations and was Canada's negotiator for the *Agreement on Textiles and Clothing*.

On July 5, 2002, Mr. Zdenek Kvarda was re-appointed to the position of Member of the Tribunal. Prior to his appointment in 1999, he was President and Chief Executive Officer of Aluminum Star Products Limited, a manufacturer of architectural signage. In 1991, the Ontario Chamber of Commerce presented him with the Award of Merit for Outstanding Business Achievement. Mr. Kvarda also held various positions with the Eastern Ontario Development Corporation, including the position of Chair. He has served as Director of the Ontario Development Corporation. He was the founding President of the Belleville Junior Chamber of Commerce, a District President, President of the Ontario Junior Chamber of Commerce, as well as a director of the Canadian Junior Chamber of Commerce. Currently, he sits in the Senate of Junior Chamber International.

On December 2, 2002, Ms. Meriel V.M. Bradford was appointed Member of the Tribunal. She has occupied senior positions in the public and private sectors and served on boards of various not-for-profit organizations in the areas of social policy, telecommunications and international affairs. Prior to her appointment, Ms. Bradford was Vice-President of Canada Lands Company Limited, a federal commercial Crown corporation and, until 2000, had been Vice-President of Teleglobe Inc., a publicly traded international telecommunications carrier. Within the federal public service, Ms. Bradford served as Assistant Secretary at the Federal-Provincial Relations Office of the Privy Council Office, as Assistant Chief Negotiator for the *North American Free Trade Agreement (NAFTA)* (services and immigration) and as Director General in the Latin America and Caribbean Branch of the Department of Foreign Affairs and International Trade, where she managed preparations for the *Canada-Chile Free Trade Agreement*. She served as Canada's first services negotiator for the World Trade Organization (WTO) Uruguay Round and was responsible for the services

**Dumping and
Subsidizing
Inquiries and
Reviews**

negotiations for the *Canada-United States Free Trade Agreement*. Ms. Bradford also held senior positions in the Department of Industry, Treasury Board Secretariat, Ministry of State for Social Development, Ministry of State for Science and Technology and Academic Affairs Division of the Canada Council for the Arts.

In the 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 four findings following injury inquiries under section 42 and six orders following reviews under section 76.03. The Tribunal issued five orders following interim reviews pursuant to section 76.01. At the end of the year, there was one inquiry and four expiry reviews in progress.

**Legislative
Amendments to
the Special Import
Measures
Regulations**

Section 37.1 of the *Special Import Measures Regulations* was amended to include provisions dealing with massive importation of dumped or subsidized goods. These amendments were made by virtue of the *Regulations Amending the Special Import Measures Regulations*, which came into force on February 7, 2002. The regulatory amendments ensure greater transparency and predictability by setting out factors to be considered by the Tribunal in injury inquiries conducted pursuant to *SIMA*, where the Tribunal has to determine whether anti-dumping and/or countervailing duties should be levied, collected and paid retroactively.

**Procurement
Review**

The Tribunal received 74 complaints during the fiscal year. The Tribunal issued 31 written determinations of its findings and recommendations (excluding the 4 cases that were dismissed). Fifteen of these determinations related to cases that were in progress at the end of fiscal year 2001-2002. Three determinations were remanded back to the Tribunal.

**Trade and Tariff
Reference**

Textile Reference

During the fiscal year, the Tribunal issued four reports to the Minister of Finance concerning two requests for tariff relief and two reviews of tariff relief orders. At the end of the year, five requests for tariff relief were under investigation, and there were four requests for which investigations had not yet been initiated.

As of fiscal year 2002-2003, the Tribunal is incorporating, in its annual report, the annual status report on the investigation process that was previously submitted separately to the Minister of Finance. The annual status report can be found at Chapter VII.

Safeguard Inquiry

On March 21, 2002, the Tribunal was directed by the Governor in Council, on the recommendation of the Minister of Finance and the Minister for International Trade, pursuant to paragraph 20(a) of the *Canadian International Trade Tribunal Act (CITT Act)*, to inquire into and report on the importation of certain steel goods. The Tribunal was also asked to provide recommendations on remedies where appropriate.

As directed by the Governor in Council, the Tribunal submitted its notice of determinations on July 4, 2002, and its report and recommendations on August 19, 2002.

Safeguard Inquiries— Imports from China

In fiscal year 2002-2003, Bill C-50 amended the *CITT Act*. Amendments were also made to the *Canadian International Trade Tribunal Regulations (CITT Regulations)*. These amendments, which came into force in September 2002, were made to reflect one of the concessions by the People's Republic of China (China) as part of its accession to the WTO in December 2001. China agreed to allow WTO members, during a 12-year period, to take bilateral safeguard actions against its imports, if they were found to be causing market disruption or significant trade diversion. Chapter II provides more details.

Appeals

The Tribunal issued decisions on 25 appeals from decisions of the Canada Customs and Revenue Agency (CCRA) made under the *Customs Act*, the *Excise Tax Act* and *SIMA*.

Report of the Auditor General

Chapter 3 of the *Report of the Auditor General of Canada to the House of Commons*, dated December 2002, is entitled “*Special Import Measures Act: Protecting Against Dumped or Subsidized Imports*”. The audit examined the changes to *SIMA* recommended by the two parliamentary subcommittees that conducted a significant review of *SIMA* in 1996. The audit assessed whether the Tribunal and the CCRA had put in place the support and management processes required to implement the recommended changes.

Access to Tribunal Notices, Decisions and Publications

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

In fiscal year 2002-2003, the Tribunal adopted a new look on its Web site. The 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

**Meeting Statutory
Deadlines
(Timeliness)**

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

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	Cases Outstanding (March 31, 2003)
S/IMA ACTIVITIES						
Preliminary Injury Inquiries	-	3	3	3	-	-
Inquiries	1	4	5	4	-	1
Public Interest Inquiries	-	-	-	-	-	-
Requests for Interim Review	1	8	9	4	2	3
Expiries	-	3	3	3	-	-
Expiry Reviews	5	5	10	6	-	4
APPEALS						
<i>Customs Act</i>	58	100	158	19	30	109
<i>Excise Tax Act</i>	96	17	113	4	19	90
<i>S/IMA</i>	<u>6</u>	<u>-</u>	<u>6</u>	<u>2</u>	<u>1</u>	<u>3</u>
Total	160	117	277	25	50	202
ECONOMIC, TRADE, TARIFF AND SAFEGUARD INQUIRIES						
Textile Reference						
Requests for Tariff Relief	2	10	12	2	1	9
Expiries	-	-	-	-	-	-
Reviews	1	1	2	2	-	-
Requests for Reconsideration	-	1	1	-	-	1
Economic, Trade and Tariff-related Matters	-	-	-	-	-	-
Safeguard Inquiries						
- Global	1	-	1	1	-	-
- Imports from China	-	-	-	-	-	-
PROCUREMENT REVIEW ACTIVITIES						
Complaints	17	77*	94	35	44	15

*Includes three cases that were remanded by the Federal Court of Canada.

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 *CITT 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 of decisions of the CCRA made under the *Customs Act*, the *Excise Tax Act* and *SIMA*;
- conduct inquiries into complaints by potential suppliers concerning federal government procurement that is covered by *NAFTA*, the *Agreement on Internal Trade (AIT)*, the *WTO 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 that they use in production operations;
- conduct safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, serious injury to domestic producers; and
- conduct inquiries and provide advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance.

Method of Operation

In carrying out most of its responsibilities, the Tribunal conducts inquiries with hearings that are open to the public. These are normally held at the Tribunal's offices in Ottawa, Ontario, although hearings may also be held

elsewhere in Canada, in person or through videoconferencing. The Tribunal has rules and procedures similar to those of a court of law, but not quite as formal or strict. The *CITT Act* states that hearings, generally conducted by a panel of three members, should be carried out as “informally and expeditiously” as the circumstances and considerations of fairness permit. The Tribunal has the power to subpoena witnesses and require parties to submit information. The *CITT Act* contains provisions for the protection of confidential information. Only independent counsel who have filed declarations and confidentiality undertakings may have access to confidential information.

The Tribunal’s decisions may be reviewed by or appealed to, as appropriate, the Federal Court of Canada and, ultimately, the Supreme Court of Canada, or a binational panel under *NAFTA*, in the case of a decision affecting U.S. and/or Mexican interests in *SIMA*. Governments that are members of the WTO may challenge some of the Tribunal’s decisions before a dispute settlement panel under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

Membership

The Tribunal may be composed of nine full-time members, including a Chairperson and two Vice-Chairpersons, who are appointed by the Governor in Council for a term of up to five years that is renewable once. A maximum of five additional members may be temporarily appointed. The Chairperson is the Chief Executive Officer responsible for the assignment of members and for the management of the Tribunal’s work. Members come from a variety of educational backgrounds, careers and regions of the country.

Organization

There are currently 7 Tribunal members assisted by a permanent staff of 87 people. Its principal officers are the Secretary, responsible for corporate management, public relations, dealings with other government departments and other governments, and the court registry functions of the Tribunal; the Executive Director, Research, responsible for the investigative portion of inquiries, for the economic and financial analysis of firms and industries and for other fact finding required for Tribunal inquiries; and the General Counsel, responsible for the provision of legal services.

Consultations

Through the Tribunal/Canadian Bar Association Bench and Bar Committee, the Tribunal provides a forum to promote discussion with the bar on issues of importance. The committee also includes representatives from the trade consulting community. The Tribunal consults with bar associations, representatives of industries and others that appear or are likely to appear before the Tribunal to exchange views on new procedures being considered by the

**Safeguard
Inquiries—
Imports from
China**

Tribunal prior to their distribution as guidelines or practice notices. The Tribunal also briefs federal government departments and trade associations on its procedures.

On December 11, 2001, China was admitted as a Member to the WTO. The *CITT Act* was amended to incorporate provisions for safeguard inquiries with respect to increased imports from China contained in the Protocol on the Accession of the People's Republic of China to the World Trade Organization (the Protocol). These amendments were made by virtue of *An Act to Amend Certain Acts as a Result of the Accession of the People's Republic of China to the Agreement Establishing the World Trade Organization and the Regulations Amending the Canadian International Trade Tribunal Regulations*. These amendments came into force on September 30, 2002, and will cease to have effect on December 11, 2013.

The amended legislation provides for three types of inquiries: (1) market disruption inquiries; (2) trade diversion inquiries; and (3) market disruption extension inquiries. The Tribunal has published, on its Web site, an interim guideline that describes the policies and procedures that it will follow in conducting safeguard inquiries with respect to imports from China, as well as guides for domestic producers that want to file complaints concerning imported goods from China.

**Market Disruption
Inquiries**

The purpose of a market disruption inquiry is to determine if goods originating in China are being imported into Canada in such increased quantities or under such conditions as to cause or threaten to cause market disruption to domestic producers of like or directly competitive goods.

The Tribunal may commence a market disruption inquiry following a complaint by a domestic producer or a request by the Government. In the first case, the Tribunal is required to submit its report to the Government and the Minister of Finance within 90 days. If it commences an inquiry at the request of the Government, then it must submit its report no later than the date established by Order in Council.

In making its determination in a market disruption inquiry, the Tribunal is to examine, among other factors:

- the actual volume of the goods imported into Canada from China;
- the effect of the imported goods on prices of like goods in Canada; and
- the impact of the imported goods on domestic production of like goods in Canada.

**Market Disruption
Extension Inquiries**

If the Tribunal determines that increased imports of goods from China have caused, or are threatening to cause, market disruption to Canadian producers of like goods, the Government may apply import measures to prevent or remedy the market disruption. Under amendments to the *Customs Tariff* and the *Export and Import Permits Act*, the Government may impose surtaxes, tariff rate quotas or quotas.

No later than 165 days before the expiry of any import measure imposed by the Government to remedy or prevent market disruption, the Tribunal must issue a notice of expiry of the measure. It may conduct a market disruption extension inquiry following a request by a domestic producer to determine if the measure continues to be necessary to remedy or prevent market disruption. The Tribunal must submit its report to the Government and the Minister of Finance no later than 45 days before the expiry of the measure. The Government may direct the Tribunal to report on other matters during the inquiry, including measures to prevent or remedy market disruption.

**Trade Diversion
Inquiries**

The purpose of a trade diversion inquiry is 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 the Canadian domestic market.

The Tribunal may commence a trade diversion inquiry following a complaint by a domestic producer or a request by the Government. In the first instance, it is required to submit its report to the Government and the Minister of Finance within 70 days. If it commences an inquiry at the request of the Government, then the Tribunal must submit its report no later than the date established by Order in Council.

For the purpose of a trade diversion inquiry, the term “action” means any trade-related action, including a provisional action:

- taken by China to prevent or remedy a market disruption in a WTO member other than Canada;
- taken by a WTO member, other than Canada, to limit imports to prevent or remedy market disruption in that member caused or threatened by the importation of goods originating in China; or,
- any combination of such actions.

In making its determination, the Tribunal is to examine, among other factors,

- the actual or imminent increase in Canadian market share of goods originating in China;
- the nature of the action;
- the actual or imminent increase in the importation of goods originating in China that is due to the action;
- the conditions of supply and demand in the domestic market for the like goods; and
- the volume of the goods originating in China that are imported into Canada and into any WTO member taking an action.

If the Tribunal determines, in a trade diversion inquiry, that an action under the Protocol which has affected imports into a WTO country has caused or is threatening to cause a significant diversion of trade from the country where the action was taken, the Government may apply safeguard measures sufficient to prevent or remedy the diversion of trade. Under amendments to the *Customs Tariff* and the *Export and Import Permits Act*, the Government may impose quotas, surtaxes or tariff rate quotas.

Judicial Review and Appeals to the Federal Court of Canada

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 Canada, 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 Canada. Lastly, Tribunal appeal orders and decisions, under the *Customs Act*, *SIMA* or the *Excise Tax Act*, can be appealed to the Federal Court of Canada.

Judicial Review to 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 cases before the WTO dispute settlement bodies. This is initiated by intergovernmental consultations.

Organization

CHAIRPERSON

Pierre Gosselin

VICE-CHAIRPERSONS

Patricia M. Close
Richard Lafontaine

MEMBERS

Peter F. Thalheimer*
Zdenek Kvarda
James A. Ogilvy
Ellen Fry
Meriel V.M. Bradford

SECRETARIAT

Secretary
Michel P. Granger

RESEARCH BRANCH

Executive Director of Research
Ronald W. Erdmann

LEGAL SERVICES BRANCH

General Counsel
Reagan Walker

*Term expired during the fiscal year.

Legislative Mandate

Section	Authority
<i>CITT Act</i>	
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 the People's Republic of China at the Request of either the Government or a Domestic Producer
<i>SIMA</i>	
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	Resumption of Inquiry (on Remand from the Federal Court of Canada or a Binational Panel)
45	Public Interest
46	Advice to the Commissioner
61	Appeals of Redeterminations of the Commissioner Made Pursuant to Section 59 Concerning Whether Imported Goods Are Goods of the Same Description as Goods to Which a Tribunal Finding Applies, Normal Values and Export Prices or Subsidies

Legislative Mandate of the Tribunal (cont'd)

Section	Authority
76	Reviews of Findings of Injury Initiated by the Tribunal or at the Request of the Commissioner 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

Customs Act

67	Appeals of Decisions of the Commissioner Concerning Value for Duty and Origin and Classification of Imported Goods
67.1	Requests for Time Extension to File Notices of Appeal
68	Appeals to the Federal Court of Canada
70	References of the Commissioner Relating to the Tariff Classification or Value for Duty of Goods

Excise Tax Act

81.19, 81.21, 81.22, 81.23, 81.25 and 81.33	Appeals of Assessments and Determinations of the Minister of National Revenue
81.32	Requests for Extension of Time for Objection or Appeal

Softwood Lumber Products Export Charge Act

18	Appeals of Assessments and Determinations of the Minister of National Revenue
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Energy Administration Act

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

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

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

Preliminary Injury Inquiries

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

In the inquiry, the Tribunal determines whether the evidence discloses a “reasonable indication” that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury. The primary evidence is the information received from the Commissioner and submissions from parties. The Tribunal seeks the views of parties on what are the like goods and which domestic producers comprise the domestic industry. In most cases, 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 Commissioner continues the dumping or subsidizing investigation. If there is no reasonable indication that the

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

dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, the Tribunal terminates the inquiry, and the Commissioner terminates the dumping or subsidizing investigation. The Tribunal issues reasons 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 Commissioner 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 Commissioner or the complainant may, under section 33 of *SIMA*, refer the matter to the Tribunal for an opinion as to whether or not the evidence before the Commissioner discloses a reasonable indication that the dumping or subsidizing has caused material injury or retardation or is threatening to cause material injury to a domestic industry.

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

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

**Final Injury
Inquiries**

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

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

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

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

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

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

The Tribunal completed four final injury inquiries in the fiscal year. They concerned *Fresh Tomatoes* (NQ-2001-004), *Automotive Replacement Windshields* (NQ-2002-001), *Waterproof Footwear and Waterproof Footwear Bottoms* (NQ-2002-002) and *Xanthates* (NQ-2002-003). In 2001, the estimated values of the Canadian markets for these goods were, respectively, \$400 million, \$100 million, \$100 million and \$8 million.

Fresh Tomatoes

NQ-2001-004

Finding:
No Injury
(June 26, 2002)

This inquiry concerned dumped imports of fresh tomatoes from the United States, excluding tomatoes for processing. The domestic industry consisted of the Canadian Tomato Trade Alliance (CTTA), a group of producers of fresh tomatoes grown in greenhouses located in Ontario and British Columbia. The Tribunal found that domestically grown fresh tomatoes were “like goods” to the subject goods and comprised only one class of goods, fresh tomatoes, including tomatoes for fresh consumption that are grown in greenhouses and tomatoes that are field grown. It concluded that the CTTA constituted at least “a major proportion” of the domestic production of fresh tomatoes.

A few days prior to the commencement of the hearing, the domestic industry advised the Tribunal that it did not wish to participate any further in the inquiry proceedings. Accordingly, the Tribunal cancelled the hearing that it had scheduled. It advised the industry that it would draw appropriate inferences from its withdrawal and complete the inquiry on the basis of the written record.

In the unique circumstances of the case and, on the basis of the written record, the Tribunal was not convinced that the domestic industry had suffered material injury as a result of the dumped subject goods. It noted that greenhouse tomato growers experienced rising sales, market share and production in Canada, at a time when the market share of imported U.S. tomatoes was stable. It also found that there was no clear correlation between the prices of domestic greenhouse tomatoes and the subject tomatoes.

Accordingly, the Tribunal was not persuaded that there was a causal connection between imports from the United States and the domestic industry’s performance. As to threat of injury, it saw no sign of a change in circumstances, such as any imminent major increase in U.S. plantings, production or shipments to Canada. The Tribunal, therefore, concluded that dumped imports of fresh tomatoes, originating in or exported from the United States, excluding tomatoes for processing, had not caused material injury or retardation and were not threatening to cause material injury to the domestic industry.

**Automotive
Replacement
Windshields**

NQ-2002-001

Finding:
No Injury
(August 30, 2002)

This inquiry concerned dumped imports of automotive replacement windshields from China. The domestic industry consisted of PPG Canada Inc.

While the evidence showed that imports from China had significantly increased their share of the Canadian market for automotive replacement windshields during the inquiry period, the Tribunal was not convinced that they had caused injury to the domestic industry. A significant part of the increase in subject imports was at the expense of sales from imports from the United States and Mexico. The Tribunal concluded that *SIMA* does not envisage the protection of goods not produced in Canada. It also found that, notwithstanding prices of the

subject goods that were lower than those of the domestic industry, the industry's selling prices increased through the period of inquiry. The Tribunal found that, while some of this increase may have been due to product mix, the aggregate pattern did not show that the price undercutting had an effect on the domestic industry's prices. Moreover, there was no other significant evidence that indicated a link between the prices of the dumped subject goods and those of the domestic goods.

The Tribunal also noted that the domestic industry's product mandate from its parent in the United States changed regularly. The range of products that the domestic industry produced was relatively small compared with the range that it actually sold in Canada. As part of a North American company, close to 90 percent of its production was exported to the United States. In considering the decline in domestic industry capacity utilization and production, the Tribunal further noted that export sales fell sharply during the period of inquiry and that this decline could not be attributed to dumping. It also examined several other factors that supported the conclusion that the dumping of the Chinese subject goods did not cause material injury to the domestic industry.

The Tribunal found that the dumping of automotive replacement windshields from China was not threatening to cause material injury to the domestic industry. While the Tribunal was of the view that imports from China would likely continue to enter Canada at current volumes and prices, the evidence was that growing demand in China and other export markets would absorb capacity for growth in production in China. The Tribunal noted that three of the four Chinese exporters to Canada that accounted for almost all Chinese exports were found to have weighted average margins of dumping of zero. Even if these exporters increased their share of the Canadian market in the near future, such exports would not be injurious because of the dumping.

***Waterproof Footwear
and Waterproof
Footwear Bottoms***

NQ-2002-002

*Finding:
No Injury
(January 7, 2003)*

This inquiry concerned dumped imports of waterproof rubber and plastic footwear and waterproof footwear bottoms from Hong Kong, China (Hong Kong); Macao, China (Macao); and Vietnam. The domestic industry consisted of The Shoe Manufacturers' Association of Canada, representing six producers that accounted for more than 95 percent of the total domestic production. The Tribunal found that there was a single class of goods that were like the subject goods.

The Tribunal found no imports of the subject goods from Hong Kong during the Commissioner's period of investigation. Therefore, pursuant to subsection 42(4.1) of *SIMA*, the Tribunal terminated its inquiry with respect to Hong Kong.

With respect to imports from Macao and Vietnam, the Tribunal found that they had quickly captured a certain percentage of the Canadian waterproof footwear market. However, it also found that these imports, which largely comprised Sorel waterproof rubber footwear, had entered the Canadian market in response to pent-up demand for Sorel footwear. This brand had ceased being produced in Canada following the bankruptcy of the Canadian manufacturer, Kaufman Footwear (Kaufman), which had previously manufactured the goods. Despite the rise in imports, the market share that they captured was considerably less than the market share formerly held by Kaufman. In the Tribunal's view, the increase in the volume of imports of the subject goods was not such that would have caused injury to the domestic industry.

With respect to the effect of dumped prices, the Tribunal was not persuaded that the pricing of the Sorel brand, a premium product, was disruptive to domestic pricing. With regard to the impact that the subject imports had on the industry, it found that the evidence demonstrated that virtually all the industry's key performance indicators had improved in 2000 and 2001 and, in some cases, substantially. With respect to the industry's allegations of injury at specific accounts, the Tribunal found that many of the allegations lacked relevant details about competing products and prices. In sum, it concluded from the evidence provided that the subject goods had not injured the industry over the period reviewed.

Turning to the question of threat of injury, the Tribunal found that there was only one importer of the Sorel brand and that this importer had demonstrated a responsible approach in selling the subject goods in Canada, with modest growth in its sales of winter waterproof footwear in 2003 and a very small increase in its Canadian market share. In addition, the importer intended to continue to focus on a premium pricing strategy. The Tribunal also noted the testimony of the Vietnamese footwear industry that asserted that Vietnamese production capacity for the subject goods was limited and that production was based only on orders by its major customers. In the Tribunal's estimation, this did not suggest a pending onslaught on the Canadian market by exporters of the subject goods. In the Tribunal's view, nothing in the evidence suggested a threat of injury to domestic production from the subject goods imported from Macao and Vietnam.

Xanthates

NQ-2002-003

*Finding:
Injury
(March 4, 2003)*

This inquiry concerned dumped imports of xanthates from China. Charles Tennant & Company (Canada) Limited was the sole Canadian producer and constituted the domestic industry for the purpose of this inquiry.

Faced with import competition from China during the period of inquiry, the domestic industry maintained its market share in a declining market from 1999 to 2001 and even increased its share in the first nine months of 2002. In 2001,

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

offers of low-priced Chinese product became more common in the market, and the domestic industry had to reduce its own prices, reductions that were substantiated by evidence provided by the industry. The industry also provided evidence of price reductions to which it consented in a 2001 auction to maintain and gain major accounts for which imports from China were also competing at dumped prices. During 2002, industry prices declined sharply as a result of the 2001 auction. The industry's financial performance deteriorated in 2001 and 2002 as a result of increased unit costs and declining sales revenues per kilogram. The Tribunal concluded that the dumped imports had caused material injury to the domestic industry, primarily through price erosion.

The Tribunal also considered evidence relating to other factors, such as the decline in the industry's export sales, increased pressure on worldwide xanthates prices, the installation of a new reactor in 2001 because of safety concerns (increasing xanthates production capacity) and the sharp increase in the cost of goods sold. The Tribunal found that these factors may have caused injury, but not the price erosion caused by dumped imports.

There was one inquiry in progress at the end of the fiscal year, *Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings* (NQ-2002-004). This inquiry concerns dumped imports from China.

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 no requests for public interest inquiries during the fiscal year.

Importer Ruling

Under section 90 of *SIMA*, the Commissioner may request the Tribunal to rule on the question as to which of two or more persons is the importer of goods on which anti-dumping or countervailing duties are payable. If the Tribunal identifies as the importer a person other than the one specified by the Commissioner, it may reconsider its original finding of material injury under section 91. There were no requests for importer rulings in the fiscal year.

Interim Reviews

The Tribunal may review its findings of injury or orders at any time, on its own initiative or at the request of the Minister of Finance, the Commissioner or any other person or government (section 76.01 of *SIMA*). 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 eight requests for interim reviews during the fiscal year. In three cases, it determined that reviews were warranted. In another case, it decided that a review was not warranted, and in another, the file was closed. Three requests were being considered at the end of the fiscal year.

Interim Reviews Completed in the Fiscal Year

The Tribunal completed four interim reviews in the fiscal year, including one that had commenced in the previous fiscal year.

On April 22, 2002, the Tribunal completed an interim review (RD-2001-002) of its 1997 order, which continued, without amendment, its finding in Inquiry No. NQ-92-001 concerning *Fresh Iceberg (Head) Lettuce*. It initiated the review on March 15, 2002, following a request from the BC Vegetable Marketing Commission to have the finding rescinded. The Tribunal found that there had been major changes in circumstances and rescinded the order.

On October 4, 2002, the Tribunal received a request for an interim review (RD-2002-003) of its finding made on July 2, 1999, in Inquiry No. NQ-98-004 concerning *Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products*. The applicants, Sollac, Méditerranée S.A. and Usinor Canada Inc., requested the interim review for the exclusion of certain goods with the “Solbor 30MnB5” specification. On November 29, 2002, the Tribunal decided that an interim review was warranted and, on January 17, 2003, amended the finding to exclude the product for which an exclusion had been requested, as well as any products with equivalent specifications.

On December 4, 2002, the Tribunal received a request for an interim review (RD-2002-004) of its finding made on September 4, 1998, in Inquiry

Interim Reviews in Progress at the End of the Fiscal Year

No. NQ-98-001, concerning *Certain Stainless Steel Round Bar*. The applicant, Corus Metals, Division of Corus CIC Inc., requested the interim review for the exclusion of “Staballoy”, a stainless steel specialty product. On January 31, 2003, the Tribunal determined that an interim review was warranted. On March 5, 2003, it amended the finding to exclude the product for which an exclusion had been requested, as well as any equivalent product.

On December 5, 2002, the Tribunal received a request for an interim review (RD-2002-005) of its findings made on August 1, 2000, in Inquiry No. NQ-2000-001, concerning *Certain Refrigerators, Dishwashers and Dryers*. The applicants, Whirlpool Corporation and Whirlpool Canada Inc., requested the review to rescind the application of the findings, retroactive to January 1, 2003, with respect to “top-mount electric refrigerators, in sizes greater than 14.5 cubic feet and less than 18.5 cubic feet”. On February 13, 2003, the Tribunal determined that an interim review was warranted. On March 19, 2003, it amended its findings to exclude certain top-mount refrigerators, retroactive to January 1, 2003.

There were three interim reviews in progress 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 Commissioner of its decision. The notice of expiry review is published in the *Canada Gazette* and forwarded to all known interested parties.

During the fiscal year, the Tribunal issued three notices of expiry. It decided that expiry reviews were warranted in each case and initiated reviews.

The purpose of an expiry review is to determine whether anti-dumping or countervailing duties remain necessary. There are two phases in an expiry review. The first phase is the investigation by the Commissioner to determine whether there is a likelihood of resumed or continued dumping or subsidizing if the finding or order expires. If the Commissioner determines that such likelihood

Expiry Reviews Completed in the Fiscal Year

exists with respect to any of the goods, the second phase is the Tribunal's inquiry into the likelihood of injury or retardation. If the Commissioner determines that such a likelihood does not exist for any of the goods, the Tribunal does not consider those goods in its subsequent determination of the likelihood of injury and issues an order rescinding the order or finding with respect to those goods.

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

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

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

On April 10, 2002 the Tribunal rescinded its finding in *Polyiso Insulation Board* (RR-2001-002). On November 27, 2001, the Commissioner had determined that the expiry of the finding respecting imports from the United States was unlikely to result in a continuation or resumption of dumping of the subject goods.

On April 22, 2002, the Tribunal rescinded its order in *Machine Tufted Carpeting* (RR-2001-003). On December 7, 2001, the Commissioner had determined that the expiry of the finding respecting imports from the United States was unlikely to result in a continuation or resumption of dumping of the subject goods.

On June 26, 2002 the Tribunal rescinded its finding in *Concrete Panels* (RR-2001-004) respecting dumped imports from the United States.

On October 18, 2002, the Tribunal continued its order in *Certain Waterproof Rubber Footwear* (RR-2001-005) respecting dumped imports from China.

On January 10, 2003, the Tribunal continued its finding in *Certain Hot-rolled Carbon Steel Plate* (RR-2001-006) respecting dumped imports from China, South Africa and the Russian Federation. It rescinded its finding with respect to dumped imports from Mexico.

Expiry Reviews in Progress at the End of the Fiscal Year

On December 9, 2002, the Tribunal continued with amendments its order in *Bicycles and Frames* (RR-2002-001) respecting dumped imports from China and Chinese Taipei. The amendments excluded from the finding bicycles with an FOB selling price exceeding CAN\$225 and bicycle frames with an FOB selling price exceeding CAN\$50, as well as bicycles with foldable frames and stems.

Four expiry reviews were in progress at the end of the fiscal year. They were reviews of the orders in: *Certain Prepared Baby Foods* (RR-2002-002) respecting dumped imports from the United States; *Certain Stainless Steel Round Bar* respecting dumped imports from Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei and the United Kingdom (RR-2002-003) and respecting dumped imports from Korea (RR-2002-004), the two reviews being conducted in a single proceeding; and *Preformed Fibreglass Pipe Insulation* (RR-2002-005) respecting dumped imports from the United States.

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, 2003.

Judicial or Panel Review of SIMA Decisions

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

WTO Dispute Resolution

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

TABLE 1

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

Preliminary Injury Inquiry No.	Product	Country	Date of Determination	Determination
PI-2002-001	Certain Waterproof Footwear and Waterproof Footwear Bottoms	Hong Kong, China; Macao, China; and Vietnam	June 25, 2002	Injury
PI-2002-002	Xanthates	China	August 20, 2002	Injury
PI-2002-003	Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings	China	February 17, 2003	Injury

TABLE 2

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

Inquiry No.	Product	Country	Date of Finding	Finding
NQ-2001-004	Fresh Tomatoes	United States	June 26, 2002	No injury
NQ-2002-001	Automotive Replacement Windshields	China	August 30, 2002	No injury
NQ-2002-002	Waterproof Footwear and Waterproof Footwear Bottoms	Hong Kong, China; Macao, China; and Vietnam	January 7, 2003	No injury
NQ-2002-003	Xanthates	China	March 4, 2003	Injury
NQ-2002-004	Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings	China		

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

Review or Request No.	Product	Country	Date of Order/Decision	Order/Decision
RD-2001-002	Fresh Iceberg (Head) Lettuce	United States	April 22, 2002	Order rescinded
RD-2002-001	Waterproof Footwear and Bottoms	China	October 10, 2002	No review
RD-2002-002	Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products	France, Romania, Russian Federation and Slovak Republic	October 16, 2002	File closed
RD-2002-003	Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products	France, Romania, Russian Federation and Slovak Republic	January 17, 2003	Finding amended
RD-2002-004	Certain Stainless Steel Round Bar	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei and United Kingdom	March 5, 2003	Finding amended
RD-2002-005	Certain Refrigerators, Dishwashers and Dryers	United States	March 19, 2003	Finding amended
RD-2002-006	Certain Carbon Steel Plate	Italy, Korea, Spain and Ukraine		
RD-2002-007	Certain Carbon Steel Plate	China, South Africa and Russian Federation		
RD-2002-008	Certain Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine		

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

Review No.	Product	Country	Date of Order	Order
RR-2001-002	Polyiso Insulation Board	United States	April 10, 2002	Finding rescinded
RR-2001-003	Machine Tufted Carpeting	United States	April 22, 2002	Order rescinded
RR-2001-004	Concrete Panels	United States	June 26, 2002	Finding rescinded
RR-2001-005	Certain Waterproof Rubber Footwear	China	October 18, 2002	Order continued
RR-2001-006	Certain Hot-rolled Carbon Steel Plate	Mexico, China, South Africa and Russian Federation	January 10, 2003	Finding continued for China, South Africa and Russian Federation Finding rescinded for Mexico
RR-2002-001	Bicycles and Frames	Chinese Taipei and China	December 9, 2002	Order continued with amendments
RR-2002-002	Certain Prepared Baby Foods	United States		
RR-2002-003	Certain Stainless Steel Round Bar	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei and United Kingdom		
RR-2002-004	Certain Stainless Steel Round Bar	Korea		
RR-2002-005	Preformed Fibreglass Pipe Insulation	United States		

TABLE 5**SIMA Findings and Orders in Force as of March 31, 2003¹**

Review No. or Inquiry No.	Date of Decision	Product	Country	Earlier Decision No. and Date
NQ-97-002	April 29, 1998	Certain Prepared Baby Foods	United States	
NQ-98-001	September 4, 1998	Certain Stainless Steel Round Bar	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei and United Kingdom	
RR-98-001	November 18, 1998	Preformed Fibreglass Pipe Insulation	United States	NQ-93-002 (November 19, 1993)
RR-98-004	May 17, 1999	Certain Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate	Italy, Korea, Spain and Ukraine	NQ-93-004 (May 17, 1994)
NQ-98-003	June 18, 1999	Certain Stainless Steel Round Bar	Korea	
RR-98-005	June 22, 1999	12-gauge Shotshells	Czech Republic and Republic of Hungary	NQ-93-005 (June 22, 1994)
NQ-98-004	July 2, 1999	Certain Flat Hot-rolled Carbon and Alloy Steel Sheet Products	France, Romania, Russian Federation and Slovak Republic	
RR-98-006	July 19, 1999	Black Granite Memorials and Black Granite Slabs	India	NQ-93-006 (July 20, 1994)
RR-98-007	July 28, 1999	Certain Corrosion-resistant Steel Sheet Products	Brazil, Germany, Japan, Korea and United States	NQ-93-007 (July 29, 1994)
NQ-99-001	August 27, 1999	Certain Cold-rolled Steel Sheet Products	Belgium, Russian Federation, Slovak Republic and Turkey	
NQ-99-002	January 12, 2000	Certain Concrete Reinforcing Bar	Cuba, Korea and Turkey	
RR-99-002	March 20, 2000	Subsidized Canned Ham	Denmark and Netherlands	GIC-1-84 (August 7, 1984) RR-89-003 (March 16, 1990) RR-94-002 (March 21, 1995)

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

Findings and Orders in Force (cont'd)

Review No. or Inquiry No.	Date of Decision	Product	Country	Earlier Decision No. and Date
NQ-99-003	May 1, 2000	Iodinated Contrast Media	United States (including the Commonwealth of Puerto Rico)	
RR-99-003	May 1, 2000	Women's Boots	China	RR-94-003 (May 2, 1995) NQ-89-003 (May 3, 1990)
RR-99-004	June 5, 2000	Carbon Steel Welded Pipe	Korea	RR-94-004 (June 5, 1995) RR-89-008 (June 5, 1990) ADT-6-83 (June 28, 1983)
NQ-99-004	June 27, 2000	Certain Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine	
NQ-2000-001	August 1, 2000	Certain Refrigerators, Dishwashers and Dryers	United States (WCI and Whirlpool)	
RR-99-005	September 13, 2000	Whole Potatoes	United States	RR-94-007 (September 14, 1995) RR-89-010 (September 14, 1990) CIT-16-85 (April 18, 1986) ADT-4-84 (June 4, 1984)
NQ-2000-002	October 27, 2000	Certain Stainless Steel Round Bar	Brazil and India	
RR-99-006	November 3, 2000	Refined Sugar	United States, Denmark, Germany, Netherlands, United Kingdom and European Union	NQ-95-002 (November 6, 1995)
NQ-2000-004	December 8, 2000	Waterproof Footwear and Bottoms	China	
NQ-2000-006	May 2, 2001	Garlic, Fresh or Frozen	China and Vietnam	
NQ-2000-007	June 1, 2001	Certain Concrete Reinforcing Bar	Indonesia, Japan, Latvia, Republic of Moldova, Poland, Chinese Taipei and Ukraine	

Findings and Orders in Force (cont'd)

Review No. or Inquiry No.	Date of Decision	Product	Country	Earlier Decision No. and Date
RR-2000-002	July 24, 2001	Certain Carbon Steel Welded Pipe	Argentina, India, Romania, Chinese Taipei, Thailand and Brazil	NQ-90-005 (July 26, 1991) NQ-91-003 (January 23, 1992) RR-95-002 (July 25, 1996)
NQ-2001-001	August 17, 2001	Certain Flat Hot-rolled Steel Sheet and Strip	Brazil, Bulgaria, China, Chinese Taipei, India, Macedonia, South Africa, Ukraine and Yugoslavia	
NQ-2001-003	December 27, 2001	Leather Footwear with Metal Toe Caps	China	
RR-2001-001	March 20, 2002	Fresh Garlic	China	NQ-96-002 (March 21, 1997)
RR-2001-005	October 18, 2002	Certain Waterproof Rubber Footwear	China	ADT-4-79 (May 25, 1979) ADT-2-82 (April 23, 1982) R-7-87 (October 22, 1987) RR-92-001 (October 21, 1992) RR-97-001 (October 20, 1997)
RR-2001-006	January 10, 2003	Certain 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	NQ-92-002 (December 11, 1992) RR-97-003 (December 10, 1997)
NQ-2002-003	March 4, 2003	Xanthates	China	

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

Case No.	Product	Country of Origin	Forum	File No./Status
NQ-99-003	Iodinated Contrast Media	United States	BP	CDA-USA-2000-1904-02 Finding affirmed (January 8, 2003)
NQ-2000-008	Certain Corrosion-resistant Steel Sheet	China, India, Malaysia, Russian Federation, South Africa and Chinese Taipei	FC	A—455—01 Application dismissed (October 29, 2002)
NQ-2001-002	Certain Cold-rolled Steel Sheet	Brazil, Chinese Taipei, Macedonia, Italy, Luxembourg, Malaysia, China, Korea and South Africa	FC	A—650—01 Application dismissed (March 12, 2003)
RR-2000-001	Certain Oil and Gas Well Casing	Korea and United States	FC	A—463—01, A—472—01 Applications discontinued (November 8, 2002)
LE-2001-004	Concrete Panels	United States	FC	A—657—01 Application discontinued (November 8, 2002)

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

CHAPTER IV

APPEALS

Introduction

The Tribunal hears appeals from decisions of the Commissioner under the *Customs Act* and *SIMA* or of the Minister of National Revenue (the Minister) under the *Excise Tax Act*. 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'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 or Commissioner (the respondent) and states why the appellant believes that the respondent's decision is incorrect. A copy of the brief must also be given to the respondent.

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

Hearings

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

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

The Tribunal, on its own initiative or on the request of the appellant or the respondent, may decide to hold a hearing by way of written submissions. In that case, 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.

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

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

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

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

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

**Appeals
Considered**

During the fiscal year, the Tribunal heard 35 appeals, of which 24 related to the *Customs Act*, 9 to the *Excise Tax Act* and 2 to *SIMA*. Decisions were issued in 25 cases, of which 11 were heard during the fiscal year.

Decisions on Appeals

Act	Allowed	Allowed in Part	Dismissed	Total
<i>Customs Act</i>	6	2	11	19
<i>Excise Tax Act</i>	-	-	4	4
<i>SIMA</i>	-	-	2	2

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, one of which was heard under the *Customs Act*, another under *SIMA* and another under the *Excise Tax Act*. These summaries have been prepared for general information purposes only and have no legal status.

**Walter Seaton
v.
Commissioner of the
CCRA**

AP-2002-020

*Decision:
Appeal allowed
(January 30, 2003)*

This was an appeal under subsection 67(1) of the *Customs Act* from a decision of the Commissioner of the CCRA made under subsection 60(4) of the *Customs Act* on May 7, 2002. The issue in this appeal was whether a wooden blowgun, which was detained by the Commissioner on March 1, 2002, was properly classified under tariff item No. 9898.00.00 of the schedule to the *Customs Tariff* as a prohibited weapon.

The product in issue was a wooden blowgun, which was a hollow tube approximately 95 centimetres in length with openings at both ends of the tube. There was a hand-carved wooden mouthpiece approximately 7 centimetres in length encircling one end of the hollow tube. The tube was blocked using a wooden plug approximately 4 centimetres in length.

Mr. Seaton argued, on his own behalf, that the product in issue was a toy blowgun, which he had purchased in January 2001 during one of frequent visits to the Amazon Basin. He further testified that the darts used in the product in

**Macsteel International
(Canada) Ltd.**
v.
**Commissioner of the
CCRA**

AP-2001-012

*Decision:
Appeal dismissed
(January 16, 2003)*

issue were the size of toothpicks and that they were incapable of piercing the human skin even at close range. Furthermore, Mr. Seaton submitted that the product in issue did not satisfy the definition of “weapon” in the *Criminal Code* and, therefore, could not be classified as a prohibited weapon. Mr. Seaton also provided testimony and argument that the product in issue was not similar to a Yaqua blowgun.

In reply, the Commissioner submitted that section 12 of Part 3 of the schedule of the *Regulations Prescribing Certain Firearms and other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted* prescribed that “[t]he device commonly known as ‘Yaqua Blowgun’, being a tube or pipe designed for the purpose of shooting arrows or darts by the breath, and any similar device” were prohibited weapons.

In the Tribunal’s view, section 12 was only intended to cover devices that were “weapons” as defined in the *Criminal Code*. In the Tribunal’s view, it was clear from the evidence that the product in issue was not used, designed to be used or intended for use in causing death or injury to any person or for the purpose of threatening or intimidating any person. Accordingly, the product in issue was not a weapon and, thus, did not fall within section 12.

For the foregoing reasons, the Tribunal allowed the appeal.

This was an appeal under section 61 of *SIMA* from a redetermination of the Commissioner of the CCRA. In his redetermination, the Commissioner confirmed that the goods in issue, 16 pieces of hot-rolled steel plate imported from the Republic of Korea by Macsteel International (Canada) Ltd. (Macsteel) in July 1999, were goods of the same description as the goods to which the Tribunal’s order in Review No. RR-98-004 applied and were, therefore, subject to anti-dumping duties.

In Review No. RR-98-004, the Tribunal ordered the imposition of anti-dumping duties on hot-rolled carbon steel plate with a thickness range from 0.187 in. (4.75 mm) to 4 in. (101.6 mm) inclusive. The issue in this appeal was whether the goods in issue, having a thickness of 102 mm, were goods of the same description as the goods to which the Tribunal’s order applied.

In this context, the Tribunal heard testimony and reviewed evidence from Macsteel that indicated that the goods in issue were specifically produced to a minimum thickness of 102 mm to avoid paying the associated anti-dumping duties.

**Scott Paper Limited
v.
Minister of National
Revenue**

AP-2000-034

*Decision:
Appeal dismissed
(April 11, 2002)*

A witness for the Commissioner indicated that anti-dumping duties were charged on the products in issue after reviewing the customs invoice, which described the goods as being 4 in. in thickness. In argument, the Commissioner relied on this documentary evidence to indicate that the anti-dumping duties were payable. In this context, Macsteel submitted that there was no exact equivalent in the computer database for 102 mm (i.e. 4.016 in.) and that the closest measurement available (i.e. 4 in.) was selected.

Moreover, the Tribunal heard expert testimony indicating that, according to the prescribed ASTM standards in the Tribunal's order, the tolerated thickness for 4-in. plate was between 3.986 in. and 4.154 in. The witness further testified that, in his opinion, plate that was 102 mm thick would fall within the range of tolerated thicknesses for 4-in. plate and could be sold as 4-in. plate. In argument, the Commissioner submitted that, based on this expert testimony, even if the goods in issue were 102 mm, they would still fall under the Tribunal's order.

In reaching its decision, the Tribunal noted that the evidence showed that the goods in issue were, for the most part, identical to 4-in. plate, could be used for the same applications and were sold at the same price. Accordingly, it was of the view that the goods in issue were goods of the same description as the goods to which its order applied.

For the foregoing reasons, the Tribunal dismissed the appeal.

This was an appeal under section 81.19 of the *Excise Tax Act* from a decision of the Minister of National Revenue dated May 30, 2000. In that decision, a claim for a refund of federal sales tax (FST) paid on bathroom tissue during the period from April 1 to December 31, 1990, was denied, on grounds that it was outside the two-year limitation period provided for under section 68 of the *Excise Tax Act*. The issue in this appeal was whether Scott Paper Limited (Scott Paper) was entitled to a refund of the FST paid in error in relation to bathroom tissue.

The evidence on the record indicated that Scott Paper filed a refund claim in 1992 in respect of "[o]verpayment of F.S.T. on [e]xempt [s]ales" during the period from April 1 to December 31, 1990. The evidence also indicated that the amount claimed was determined in respect of facial tissue only and that, in subsequent dealings with the Minister of National Revenue with respect to the claim, Scott Paper requested consideration of tax paid in error in relation to sales of facial tissue only.

In 1998, the Federal Court—Trial Division held that both facial tissue and bathroom tissue were tax exempt. As a result, in 1999, Scott Paper asked the Minister of National Revenue to also grant it a refund of the tax that it had paid in

error in relation to bathroom tissue during the period from April 1 to December 31, 1990, pursuant to its refund application submitted in 1992. Scott Paper's refund claim was allowed in relation to the facial tissue, and a partial refund in the amount of approximately \$1.6 million was made. The Minister of National Revenue did not allow any refund with respect to bathroom tissue on the grounds that the claim for bathroom tissue had been made outside the two-year limitation period.

In the appeal, Scott Paper argued that, according to section 68 of the *Excise Tax Act*, a taxpayer is not required to apply for a refund of any specific moneys paid in error. Given the decision of the Federal Court—Trial Division, there was no dispute that Scott Paper had overpaid taxes with respect to both facial tissue and bathroom tissue. Given the broad wording of its refund application, Scott Paper argued that it was entitled to a refund of all taxes that it had paid in error, including taxes paid in error with respect to bathroom tissue.

In its decision, the Tribunal held that the wording of section 68 of the *Excise Tax Act* contemplated that the applicant had to indicate the nature of the alleged error in its refund application. To accept Scott Paper's interpretation would have required the Tribunal to give no effect to the explicit wording pertaining to the two-year limit for filing a refund claim.

Furthermore, the Tribunal found that, in this case, Scott Paper's refund claim was with respect to facial tissue only, not bathroom tissue. Scott Paper had not asked the Minister of National Revenue for a refund of tax paid in error with respect to bathroom tissue until 1999, approximately six years after the Minister of National Revenue had issued the notice of determination and well after the two-year limitation period had expired.

For these reasons, the Tribunal dismissed the appeal.

TABLE 1**Appeal Decisions Rendered Under Section 67 of the *Customs Act*, Section 81.19 of the *Excise Tax Act* and Section 61 of *SIMA***

Appeal No.	Appellant	Date of Decision	Decision
<i>Customs Act</i>			
AP-99-064 and AP-99-065	European Arms Distributor (1982) Ltd.	May 16, 2002	Appeals allowed in part
AP-2001-017	Active Marble & Tile Ltd.	June 13, 2002	Appeal dismissed
AP-2001-078	Vito V. Servello	June 19, 2002	Appeal dismissed
AP-93-315	Les Pignons L.V.M. du Québec Inc.	August 19, 2002	Appeal dismissed
AP-2001-065	Alliance Ro-Na Home Inc.	September 17, 2002	Appeal allowed
AP-2001-081	Wilton Industries Canada Limited	September 24, 2002	Appeal allowed
AP-2001-089	Anto Bozic	October 29, 2002	Appeal dismissed
AP-2001-007 to AP-2001-010	Star Choice Television Network Incorporated	November 8, 2002	Appeals dismissed
AP-2001-088	Wilton Industries Canada Limited	November 8, 2002	Appeal dismissed
AP-2001-071	Brecknell, Willis & Co. Ltd.	November 22, 2002	Appeal allowed
AP-99-116	PHD Canada Distributing Ltd.	November 25, 2002	Appeal allowed
AP-2001-064	Terry Thompson	January 14, 2003	Appeal dismissed
AP-2001-090	Eurotrade Import-Export Inc.	January 27, 2003	Appeal dismissed
AP-2002-020	Walter Seaton	January 30, 2003	Appeal allowed
AP-2000-051	Entrelec Inc.	March 17, 2003	Appeal allowed
<i>Excise Tax Act</i>			
AP-2000-034	Scott Paper Limited	April 11, 2002	Appeal dismissed
AP-99-039 and AP-99-058	Prolith Incorporated	October 3, 2002	Appeals dismissed
AP-2001-005	Doug Paterson	November 14, 2002	Appeal dismissed
<i>SIMA</i>			
AP-2001-012	Macsteel International (Canada) Limited	January 16, 2003	Appeal dismissed
AP-2001-093	Amersham Health Inc. (formerly Nycomed Amersham Canada Inc.)	March 10, 2003	Appeal dismissed

TABLE 2

Appeal Cases Before the Federal Court of Canada¹

Appeal No.	Appellant	File No./Status
2983	Les industries Vogue Ltée	A—419—00 Application dismissed (April 15, 2002)
AP-89-013	Hyalin International (1986) Inc.	T—1635—92 Application discontinued (June 6, 2002)
AP-90-117	Artec Design Inc.	T—1556—92
AP-91-141	The Sheldon L. Kates Design Group Limited	T—2957—94
AP-93-123	W. Ralston (Canada) Inc.	T—2112—95 Application dismissed (June 3, 2002)
AP-96-046 and AP-96-074	GFT Mode Canada Inc.	A—659—00, A—498—00
AP-97-137	Asea Brown Boveri Inc.	A—171—00
AP-98-047	N.C. Cameron & Sons Ltd.	A—341—00 Application dismissed (May 16, 2002)
AP-99-039 and AP-99-058	Prolith Inc.	T—168—03
AP-99-062	Barney Printing Limited	T—1627—01
AP-2000-035	Abraham Goldrich	A—023—02 Appeal discontinued (May 21, 2002)
AP-2000-040	Sable Offshore Energy Incorporated	A—361—02
AP-2001-007 to AP-2001-010	Star Choice Television Network Incorporated	A—67—03, A—68—03, A—69—03, A—70—03
AP-2001-081	Wilton Industries Canada Limited	A—713—02
AP-2001-088	Wilton Industries Canada Limited	A—66—03

1. The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not participate in appeals to the Federal Court of Canada, it is unable to confirm that the list contains all appeals that were before the Federal Court of Canada.

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 Completed in the Fiscal Year

The Tribunal completed one safeguard inquiry during the fiscal year.

Certain Steel Goods

GC-2001-001

(August 19, 2002)

On March 21, 2002, the Tribunal was directed by the Governor in Council, on the recommendation of the Minister of Finance and the Minister for International Trade to inquire into and report on the importation of certain steel goods.

The purpose of this inquiry was to determine whether certain steel goods were being imported into Canada from all sources in such increased quantities since the beginning of 1996, and under such conditions, as to be a principal cause of serious injury or threat thereof to domestic producers of like or directly competitive goods. If the Tribunal made injury determinations with respect to a product, it was to make recommendations as to the most appropriate remedy to address, over a period of three years, the injury caused or threatened to be caused by increased imports of that product. In addition, the Tribunal was directed to provide recommendations to exclude, from any remedy, goods that were not available from domestic producers.

As required by the terms of reference, the Tribunal issued its determinations respecting injury on July 4, 2002, and published its report on August 19, 2002. Close to 200 interested parties participated in the inquiry. More than 100 witnesses testified at the two public hearings that the Tribunal held, the first dealing with injury (15 days), and the second dealing with remedies (3 days).

The goods subject to the inquiry included flat-rolled carbon and alloy steel products, carbon and alloy “long” steel products, and welded and seamless, carbon and alloy tubular steel products. The Tribunal’s inquiry focused on nine separate goods: flat-rolled carbon and alloy steel discrete plate; flat-rolled carbon and alloy steel hot-rolled sheet and coil; flat-rolled carbon and alloy steel cold-rolled sheet and coil; flat-rolled carbon and alloy steel corrosion-resistant sheet and coil; carbon and alloy hot-rolled bars; carbon and alloy hot-rolled shapes and light and intermediate structurals; carbon and alloy cold-drawn and finished bars and rods; and carbon and alloy concrete reinforcing bars; and welded and seamless carbon and alloy tubular steel pipe to 16” O.D.

In its July 4, 2002, determinations, the Tribunal found that increased imports were a principal cause of serious injury to domestic producers of discrete plate, cold-rolled sheet and coil, reinforcing bar, angles shapes and sections, and standard pipe. For all these goods, the Tribunal found that imports from Mexico, Israel or another *Canada-Israel Free Trade Agreement* beneficiary, and Chile, were not contributing importantly to the serious injury. For four of the goods, it found that increased imports from the United States contributed importantly to the serious injury. For the fifth product, reinforcing bars, it found that increased imports from the United States were not contributing importantly to the serious injury. The Tribunal found that increased imports were not a principal cause of serious injury or threat of serious injury to domestic producers of hot-rolled sheet and coil, corrosion-resistant sheet and coil, hot-rolled bars, and cold-drawn and finished bars and rods.

**Safeguard
Inquiries—
Imports from
China**

As requested in the terms of reference, the Tribunal provided recommendations as to the most appropriate remedy to address, over a period of three years, the serious injury caused by increased imports. For the four goods where it determined that increased imports had been a principal cause of serious injury, and that imports from the United States contributed importantly to the serious injury, the Tribunal recommended tariff rate quotas as the best remedy available to address the injury to the domestic producers, while balancing the interests of downstream users and minimizing the cost to the economy.

For reinforcing bars, for which no remedy was applicable to imports from the United States, the Tribunal recommended a tariff as the most appropriate remedy.

The Tribunal recommended that the Government grant, in full or in part, 215 requests that certain goods be excluded from any safeguard remedy. In addition, it recommended the exclusion, from any safeguard remedy, of imports from countries considered to be developing countries by the Development Assistance Committee of the Organisation for Economic Co-operation and Development that met the volume criteria for developing countries set out in the *WTO Agreement on Safeguards*.

On August 22, 2002, certain U.S. steel mills filed an application for judicial review of the Tribunal's findings of injury with respect to imports from the United States with the Federal Court of Canada. The products under review are flat-rolled carbon and alloy steel discrete plate, flat-rolled carbon and alloy steel cold-rolled sheet and coil, and welded and seamless carbon and alloy tubular steel standard pipe to 16" O.D.

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.

CHAPTER VI

PROCUREMENT REVIEW

Introduction

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

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

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

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

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

The Tribunal then determines whether the complaint is valid. If the complaint is found to be valid, the Tribunal may make recommendations to the government institution (such as retendering, re-evaluating or providing compensation). 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 respondent depending on the nature and circumstances of the case.

Summary of Activities

	2001-2002	2002-2003
NUMBER OF COMPLAINTS		
Carried Over from Previous Fiscal Year	22	17
Received in Fiscal Year	77	74
Remanded	1	3
Total	100	94
CASES RESOLVED		
Withdrawn or Resolved by the Parties	11	11
Abandoned While Filing	-	1
Subtotal	11	12
INQUIRIES NOT INITIATED		
Lack of Jurisdiction	8	3
Late or Improper Filing	12	10
No Valid Basis/No Reasonable Indication of a Breach/Premature	16	19
Subtotal	36	32
INQUIRY RESULTS		
Dismissed	3	4
Complaint Not Valid	9	11
Complaint Valid or Valid in Part	23	20
Subtotal	35	35
OUTSTANDING AT END OF FISCAL YEAR	17	15

**Summary of
Selected
Determinations**

During the fiscal year, the Tribunal issued 31 written determinations of its findings and recommendations (excluding the 4 cases that were dismissed), which related to 28 procurement complaints and 3 decisions that had been remanded to the Tribunal by the Federal Court of Canada. In 20 of the 31 written determinations, the complaints were determined to be valid or valid in part. Fifteen 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.

**ZENON
Environmental Inc.**

PR-2002-015

*Determination:
Complaint valid
(October 15, 2002)*

The Tribunal made a determination with respect to a complaint filed by ZENON Environmental Inc. (ZENON) concerning a solicitation of the Department of Public Works and Government Services (PWGSC), on behalf of the Department of National Defence (DND), for the repair and overhaul of shipboard reverse osmosis desalinator units.

ZENON alleged that PWGSC awarded a contract to a bidder whose proposal did not meet all the mandatory requirements of the solicitation document. It alleged that Seprotech Systems Inc. (Seprotech) failed to provide letters of intent from original equipment manufacturers, as stipulated in the solicitation.

As a remedy, ZENON requested that the contract awarded to Seprotech be terminated and, instead, be awarded to it. It also requested its costs incurred in relation to preparing and proceeding with the complaint.

Having examined the evidence presented by the parties and considered the provisions of the *AIT*, the Tribunal determined that the complaint was valid. It found that PWGSC improperly applied the evaluation criteria set out in the solicitation. It recommended that the contract be terminated and that, for the remaining two proposals, PWGSC re-evaluate only the criterion to provide a firm indication, as far as components not readily available by commercial supply or not manufactured by the bidder itself are concerned, that such components are accessible to the bidder. The Tribunal awarded ZENON its reasonable complaint costs.

Cognos Incorporated

PR-2002-017

*Determination:
Complaint valid
(November 29, 2002)*

The Tribunal made a determination with respect to a complaint filed by Cognos Incorporated (Cognos) concerning a solicitation of PWGSC, on behalf of the Correctional Service of Canada (CSC), for the provision of informatics professional services.

Cognos alleged that PWGSC and CSC used a limited tendering procedure that was not supported by any of the permissible grounds in the applicable trade agreements. It also alleged that CSC failed to express its requirements in terms of performance criteria.

As a remedy, Cognos requested that the Advance Contract Award Notice be cancelled and that the procurement be conducted through an open competition. In the alternative, Cognos requested that the Tribunal recommend that it be compensated for 50 percent of the profit that it would have earned, if it had submitted a bid at a price of one dollar lower than the estimated cost of the proposed contract. In addition, Cognos requested its costs incurred in relation to 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 valid. The Tribunal found that PWGSC was wrong to conclude that Cognos was not a potential supplier and that there were serious deficiencies in the manner in which the procurement was handled. The Tribunal recommended that Cognos be awarded one third of the profit that it would have earned if it had submitted a bid to perform the work at a price of one dollar lower than the estimated cost of the proposed contract. Using this as the basis, the Tribunal recommended that the parties develop a joint proposal for compensation that recognized: (a) the seriousness of the deficiency of the procurement process; (b) the degree to which Cognos was prejudiced; and (c) the prejudice caused to the integrity and efficiency of the competitive procurement system. The Tribunal awarded Cognos its reasonable complaint costs.

Noël Import/Export

PR-2002-036

*Determination:
Complaint valid in part
(February 6, 2003)*

The Tribunal made a determination with respect to a complaint filed by Noël Import/Export (Noël) concerning a solicitation of PWGSC, on behalf of the Parks Canada Agency, for the provision of 13 inflatable ice and water rescue craft.

Noël alleged that PWGSC improperly awarded the contract to a company whose product design infringed a patent held by Oceanid, LLC (Oceanid) and that PWGSC awarded the contract to a bidder whose proposed craft failed to meet the mandatory requirement of “[p]roven capacity for rescue operation[s] on different type[s] of ice: thin, fractured, slush, open water.”

**Papp Plastics &
Distributing Limited**

PR-2002-029

*Determination:
Complaint not valid
(February 20, 2003)*

As a remedy, Noël requested that the contract be retendered and/or that it be compensated for lost profits and marketing expenses.

Having examined the evidence presented by the parties and considered the provisions of *NAFTA* and the *AIT*, the Tribunal determined that the complaint was valid in part. It found that it did not have jurisdiction to inquire into the allegation that PWGSC improperly awarded the contract to a company whose product design was a patent infringement of Oceanid's Fortuna rescue craft. It also found that PWGSC violated the trade agreements by using a method of evaluating the criteria that was not identified in the tender documents and by failing to award the contract in accordance with the criteria and essential requirements specified in the tender documentation.

The Tribunal recommended that Noël be compensated for the profit that it would have reasonably earned if it had been awarded a contract for 13 inflatable ice and water rescue craft. The Tribunal awarded Noël its reasonable complaint costs.

The Tribunal made a determination with respect to a complaint filed by Papp Plastics & Distributing Limited (Papp) concerning a solicitation of PWGSC, on behalf of DND, for the repair of trunk lockers.

Papp alleged that PWGSC's evaluation process and award were unfair due to a difference in the evaluation and performance standards between bidders. Specifically, it alleged that it was held to a higher standard through the pre-bid clarification questions and responses not disclosed to other bidders prior to tender. Papp also alleged that other bidders could not supply all the specified hardware as per the DND and PWGSC specifications because it had in its possession and was using the only hasp bracket die (Crown-owned tooling) available to produce specified parts meeting this requirement. Finally, Papp alleged that the tender specifications were neglected and that PWGSC improperly assessed the contractors' capabilities.

As a remedy, Papp requested that, since standing offers had already been awarded, it be compensated 20 percent of the total contract price for lost profit or opportunity and an additional 10 percent for damages in regard to jeopardizing the integrity of the procurement process. It also requested that it receive complaint and legal costs.

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 PWGSC was correct in determining that the bidders met the tender specifications. It also found that there was no obligation on PWGSC's

**Judicial Review of
Procurement
Decisions**

part to look beyond what was included in the proposals in relation to capability and, therefore, found that the bidders were properly evaluated as being compliant. With respect to the allegations regarding an unfair evaluation process, the Tribunal found that PWGSC correctly concluded that there was no need to issue an addendum to all bidders for the purpose of clarifying the solicitation document.

The Tribunal determined that no costs would be awarded to any of the parties to the complaint.

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

TABLE 1**Disposition of Procurement Complaints**

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2000-018R	X-Wave Solutions Inc.	June 28, 2000	Decision rendered on July 31, 2002 Complaint not valid
PR-2001-030R	Hewlett-Packard (Canada) Ltd.	October 9, 2001	Decision rendered on October 31, 2002 Complaint dismissed
PR-2001-040R	Hewlett-Packard (Canada) Ltd.	November 15, 2001	Decision rendered on October 31, 2002 Complaint valid
PR-2002-015R	ZENON Environmental Inc.	July 12, 2002	Remanded to the Tribunal
PR-2001-049	Aviva Solutions Inc.	December 13, 2001	Decision rendered on April 29, 2002 Complaint valid in part
PR-2001-051	DRS Technologies Inc.	December 18, 2001	Decision rendered on May 2, 2002 Complaint valid in part
PR-2001-052	CMC Electronics Inc.	December 18, 2001	Decision rendered on May 2, 2002 Complaint valid in part
PR-2001-056	ACMG Management Inc.	January 25, 2002	Decision rendered on June 5, 2002 Complaint valid in part
PR-2001-059	MaxSys Professionals & Solutions Inc.	February 14, 2002	Decision rendered on May 6, 2002 Complaint valid
PR-2001-060	Corel Corporation	February 15, 2002	Decision rendered on May 8, 2002 Complaint valid
PR-2001-061	Foundry Networks Inc.	February 15, 2002	Decision rendered on May 10, 2002 Complaint dismissed
PR-2001-062	Foundry Networks Inc.	February 22, 2002	Decision rendered on May 10, 2002 Complaint valid
PR-2001-063	Service Star Building Cleaning Inc.	February 26, 2002	Decision rendered on May 23, 2002 Complaint not valid
PR-2001-066	Papp Plastics & Distributing Ltd.	March 5, 2002	Decision rendered on July 12, 2002 Complaint not valid
PR-2001-067	Georgian College of Applied Arts and Technology	March 6, 2002	Decision rendered on May 29, 2002 Complaint dismissed
PR-2001-068	Bennett Environmental Inc.	March 12, 2002	Complaint withdrawn
PR-2001-069	Macadamian Technologies Inc.	March 1, 2002	Decision rendered on June 13, 2002 Complaint not valid
PR-2001-071	Équipement Industriel Champion Inc.	March 15, 2002	Decision rendered on June 5, 2002 Complaint not valid
PR-2001-074	GMA Cover Corp.	March 26, 2002	Complaint withdrawn
PR-2001-077	FLIR Systems Ltd.	March 27, 2002	Decision rendered on July 25, 2002 Complaint not valid

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2002-001	Primex Project Management Ltd.	April 15, 2002	Decision rendered on August 22, 2002 Complaint not valid
PR-2002-002	Tendering Publications Limited	April 15, 2002	Decision rendered on July 8, 2002 Complaint valid
PR-2002-003	Polaris Inflatable Boats (Canada) Ltd.	April 22, 2002	Decision rendered on September 3, 2002 Complaint valid in part
PR-2002-004	COGNOS Incorporated	April 19, 2002	Decision rendered on August 23, 2002 Complaint not valid
PR-2002-005	SPMgroup Ltd.	April 23, 2002	Decision rendered on July 15, 2002 Complaint valid
PR-2002-006	XIA Information Architects Corporation	May 7, 2002	Decision rendered on July 29, 2002 Complaint valid
PR-2002-007	Philprime/Aviron Consortium	May 3, 2002	Not accepted for inquiry, late filing
PR-2002-008	BAJAI Inc	May 3, 2002	Not accepted for inquiry, premature
PR-2002-009	PWC Consulting	May 7, 2002	Complaint withdrawn
PR-2002-010	DBS International	May 24, 2002	Complaint withdrawn
PR-2002-011	Cardinal Construction Inc.	June 3, 2002	Not accepted for inquiry, late filing
PR-2002-012	K-W Leather Products Ltd.	June 13, 2002	Decision rendered on September 3, 2002 Complaint valid
PR-2002-013	BAJAI Inc.	June 10, 2002	Not accepted for inquiry, premature
PR-2002-014	Valcom Limited	July 10, 2002	Decision rendered on December 2, 2002 Complaint not valid
PR-2002-015	ZENON Environmental Inc.	July 12, 2002	Decision rendered on October 15, 2002 Complaint valid
PR-2002-016	BAJAI Inc.	July 12, 2002	Complaint withdrawn
PR-2002-017	Cognos Incorporated	July 16, 2002	Decision rendered on November 29, 2002 Complaint valid
PR-2002-018	Plan B Systems Inc.	July 18, 2002	Complaint withdrawn
PR-2002-019	Plan B Systems Inc.	July 29, 2002	Complaint withdrawn
PR-2002-020	InBusiness Systems Inc.	August 13, 2002	Decision rendered on November 29, 2002 Complaint valid in part
PR-2002-021	Ajilon Consulting	August 26, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-022	Heddle Marine Services Inc.	August 30, 2002	Not accepted for inquiry, no reasonable indication of a breach

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2002-023	Nanaimo Shipyard Ltd.	September 13, 2002	Decision rendered on December 17, 2002 Complaint not valid
PR-2002-024	Corel Corporation	September 19, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-025	HDP Group Inc.	September 20, 2002	Not accepted for inquiry, no jurisdiction
PR-2002-026	Datamark Systems	September 20, 2002	Not accepted for inquiry, premature
PR-2002-027	RCC Consulting	September 30, 2002	Not accepted for inquiry, premature
PR-2002-028	Sirius Consulting Group Inc.	October 2, 2002	Not accepted for inquiry, late filing
PR-2002-029	Papp Plastics & Distributing Limited	October 8, 2002	Decision rendered on February 20, 2003 Complaint not valid
PR-2002-030	Captecon Inc.	October 7, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-031	GPEC International Ltd.	October 10, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-032	Survival Supply Canada Inc.	October 11, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-033	Valcom Ltd.	October 11, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-034	Acart Communications Inc.	October 18, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-035	CVDS Inc.	October 24, 2002	Decision rendered on January 22, 2003 Complaint valid
PR-2002-036	Noël Import/Export	October 30, 2002	Decision rendered on February 6, 2003 Complaint valid in part
PR-2002-037	Huron Consulting	November 5, 2002	Decision rendered on February 10, 2003 Complaint valid
PR-2002-038	Les Entreprises P. Cormier	November 19, 2002	Decision rendered on February 17, 2003 Complaint valid
PR-2002-039	Lomor Printers Ltd.	November 19, 2002	Not accepted for inquiry, late filing
PR-2002-040	IBM Canada Limited	November 26, 2002	Accepted for inquiry
PR-2002-041	Hike Metal Products Ltd.	November 29, 2002	Complaint withdrawn
PR-2002-042	Hike Metal Products Ltd.	November 29, 2002	Complaint withdrawn
PR-2002-043	AAFFINITY Contracting & Environmental Ltd.	November 29, 2002	Not accepted for inquiry, premature
PR-2002-044	Acrodex Inc.	December 3, 2002	Not accepted for inquiry, premature

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2002-045	Déménagement Outaouais Moving Inc.	December 6, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-046	Installation Globale Normand Morin & fils Inc.	December 6, 2002	Not accepted for inquiry, late filing
PR-2002-047	Brisk Corporation	December 10, 2002	Accepted for inquiry
PR-2002-048	Viasafe Inc.	December 16, 2002	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-049	Capital Crane Limited	December 18, 2002	Abandoned while filing
PR-2002-050	Verint Technology Inc.	December 18, 2002	Not accepted for inquiry, no jurisdiction
PR-2002-051	Antian Professional Services Inc.	December 27, 2002	Accepted for inquiry
PR-2002-052	Atlantis Systems International Inc.	January 9, 2003	Not accepted for inquiry, late filing
PR-2002-053	Entreprise Marissa Inc.	January 20, 2003	Not accepted for inquiry, late filing
PR-2002-054	Williams & Associates	January 22, 2003	Complaint withdrawn
PR-2002-055	Questcom Consulting Inc.	January 23, 2003	Accepted for inquiry
PR-2002-056	Executive Promotions	January 27, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-057	WorkLogic Corporation	January 28, 2003	Accepted for inquiry
PR-2002-058	GMA Cover Corp.	January 31, 2003	Not accepted for inquiry, premature
PR-2002-059	Panavideo Inc.	February 7, 2003	Accepted for inquiry
PR-2002-060	Polaris Inflatable Boats (Canada) Ltd.	February 7, 2003	Accepted for inquiry
PR-2002-061	Phirelight Inc.	February 10, 2003	Not accepted for inquiry, late filing
PR-2002-062	Sodexo MS Canada Ltd.	February 14, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2002-063	FELLFAB Ltd.	February 14, 2003	Accepted for inquiry
PR-2002-064	Foundry Networks Inc.	February 14, 2003	Decision rendered on March 19, 2003 Complaint dismissed
PR-2002-065	1252198 Ontario/Elite Painting	February 18, 2003	Accepted for inquiry
PR-2002-066	Berlitz Canada Inc.	February 25, 2003	Accepted for inquiry
PR-2002-067	Battery Direct	March 3, 2003	Not accepted for inquiry, late filing
PR-2002-068	GMA Cover Inc.	March 5, 2003	Not accepted for inquiry, not a designated contract
PR-2002-069	EDS Canada Ltd.	March 17, 2003	Accepted for inquiry
PR-2002-070	Prudential Relocation Canada	March 17, 2003	Accepted for inquiry
PR-2002-071	Foundry Networks Inc.	March 18, 2003	Not accepted for inquiry, late filing

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2002-072	Snowstar Merchants Inc.	March 18, 2003	Complaint withdrawn
PR-2002-073	Symbiotic International Consulting Services	March 27, 2003	Being filed
PR-2002-074	Consortium Genivar – M3E – Université d'Ottawa	March 27, 2003	Being filed

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

File No.	Complainant	Applicant	File No./Status
PR-2000-018R	Xwave Solutions Inc.	Xwave Solutions Inc.	A—494—02
PR-2000-063	FM One Alliance Corp.	FM One Alliance Corp.	T—1563—01
PR-2001-026	McNally Construction Inc.	Attorney General of Canada	A—007—02 Application dismissed (May 9, 2002)
PR-2001-029	John Chandioix experts-conseils inc.	John Chandioix experts-conseils inc.	A—050—02
PR-2001-030	Hewlett-Packard (Canada) Ltd.	IBM Canada Ltd. and Attorney General of Canada	A—173—02 Application allowed Referred back to Tribunal (July 4, 2002)
PR-2001-040	Hewlett-Packard (Canada) Ltd.	IBM Canada Ltd. and Attorney General of Canada	A—178—02 Application allowed Referred back to Tribunal (July 4, 2002)
PR-2001-053	Fritz Starber Inc.	Fritz Starber Inc.	A—048—02
PR-2001-059	MaxSys Professionals & Solutions Inc.	Department of Public Works and Government Services	A—366—02
PR-2001-067	Georgian College of Applied Arts and Technology	Attorney General of Canada	A—505—02
PR-2002-015	ZENON Environmental Inc.	Seprotect Systems Inc.	A—612—02 Application allowed Referred back to Tribunal (February 11, 2003)
PR-2002-017	Cognos Incorporated	Attorney General of Canada	A—720—02
PR-2002-020	InBusiness Systems Inc.	Attorney General of Canada	A—719—02
PR-2002-046	Installation Globale Normand Morin et Fils Inc.	Installation Globale Normand Morin et Fils Inc.	A—42—03
PR-2002-050	Verint Technology Inc.	Verint Technology Inc.	A—1—03
PR-2002-053	Entreprise Marissa Inc.	Entreprise Marissa Inc.	A—101—03

CHAPTER VII

TEXTILE REFERENCE

Introduction

Pursuant to a reference from the Minister of Finance dated July 6, 1994, as amended on March 20 and July 24, 1996, November 26, 1997, August 19, 1999, and July 1, 2002, the Tribunal was directed to investigate requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and to make recommendations, in respect of those requests to the Minister of Finance, 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. The Tribunal has published seven such reports, the most recent covering the period from October 1, 2000, to September 30, 2001. These reports were separate from information on the reference published in the Tribunal's annual report. On February 27, 2003, the Chairperson of the Tribunal informed the Minister of Finance that the Tribunal would be consolidating the main information previously published in the status report and including it in the Tribunal's annual report. Therefore, this year's annual report is the sole vehicle for reporting to the Minister of Finance on the Tribunal's activities under the textile reference.

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

	<p>or complete, tariff lines, textile- and/or end-use-specific tariff provisions. In the case of requests for tariff relief on textile inputs used in the manufacture of women's swimsuits, co-ordinated beachwear and co-ordinated accessories only, the recommendation could include company-specific relief. The recommendation could be for tariff relief for either a specific or an indeterminate period of time.</p>
<p>Process</p>	<p>Domestic producers seeking tariff relief must file a request with the Tribunal. Producers must file with the request either samples of the textile input for which tariff relief is being sought or a National Customs Ruling from the CCRA covering the input. If the Tribunal determines that the request is properly documented, it will conduct an investigation to determine if it should recommend tariff relief.</p>
<p>Filing and Notification of a Request</p>	<p>Upon receipt of a request for tariff relief, and before commencement of an investigation, the Tribunal issues a brief electronic notice on its Web site announcing the request. The minimum period of time for the notification of a request before an investigation is commenced is 30 days.</p> <p>This notification is designed to increase transparency, identify potential deficiencies in the request, avoid unnecessary investigations, provide an opportunity for the domestic textile industry to contact the requester and agree on a reasonable domestic source of supply, inform other users of identical or substitutable textile inputs, prepare the domestic industry to respond to subsequent investigation questionnaires and give associations advance time for planning and consultation with their members.</p>
<p>Investigations</p>	<p>When the Tribunal is satisfied that a request is properly documented, it commences an investigation. A notice of commencement of investigation is sent to the requester, all known interested parties and any appropriate government department or agency, such as the Department of Foreign Affairs and International Trade, the Department of Industry, the Department of Finance and the CCRA. The notice is also published in the <i>Canada Gazette</i>.</p> <p>In any investigation, interested parties include domestic producers, certain associations and other persons 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</p>

	<p>obtained from the requester and interested parties to determine whether the tariff relief sought will maximize net economic gains for Canada.</p>
	<p>In normal circumstances, a public hearing is not required, and the Tribunal will dispose of the matter on the basis of the full written record, including the request, the staff investigation report and all submissions and evidence filed with the Tribunal.</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>Recommendations to the Minister</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>Request for Review</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>Review on Expiry</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

	2001-2002	2002-2003
Requests		
Received	2	10
For Which Investigations Were Completed	4	2
For Which Investigations Were in Progress at Year-end	2	5
Withdrawn	0	1
Awaiting Initiation of Investigation	0	4
Recommendations to Minister		
Tariff Relief	4	2
No Tariff Relief	1	0
	3	2
Reports to Minister		
Cumulative Totals (since 1994)		
Requests Received	160	170
Recommendations to Minister		
Tariff Relief	92	94
No Tariff Relief	48	48

During the fiscal year, the Tribunal issued two reports to the Minister of Finance that related to two requests for tariff relief. At year-end, five requests were under investigation, and four requests where the decision to initiate investigations was pending. Table 1 at the end of this chapter summarizes these activities.

In addition, during the period, the Tribunal issued two reports to the Minister of Finance with respect to two reviews of orders for tariff relief. Table 2 summarizes these activities.

The Tribunal also commenced an investigation for the purpose of recommending the renewal, amendment or termination of a tariff relief order. Table 3 provides information on that investigation.

Effects

The implementation of Tribunal recommendations is made by adding new tariff items to the *Customs Tariff* or by issuing specific customs duty remission orders. Table 4 provides a summary of recommendations currently implemented by the Government. During the period from January 1 to December 31, 2002, the Tribunal estimates that these tariff items and remission orders covered imports worth about \$235 million and provided tariff relief worth about \$31 million; for

the comparable period in 2001, these amounts were about \$180 million and about \$24 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, 2002, tariff relief principally affected textile inputs falling in 4 chapters: Chapter 51 (“Wool, fine or coarse animal hair; horsehair yarn and woven fabric”); Chapter 52 (“Cotton”); Chapter 53 (“Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn”); and Chapter 54 (“Man-made filaments”). The percentage of total imports accounted for by the imports benefiting from tariff relief, falling in these chapters, ranged from 0 to 19 percent. Overall, slightly less than 1 percent of total imports falling in the 12 chapters benefit from tariff relief. The following table provides a distribution of the imports, for calendar year 2002, benefiting from tariff relief, by *Customs Tariff* chapter.

Distribution of Imports by *Customs Tariff* Chapter

Chapter	Percentage
39	0.02
40	0.00
51	18.98
52	10.39
53	4.57
54	6.22
55	2.67
56	0.48
58	2.85
59	0.61
60	1.86
70	<u>0.07</u>
Weighted Average	<u>0.93</u>

Source: Statistics Canada.

Program Review

During fiscal year 2003-2004, the Tribunal intends to update the Textile Reference Guide, which was last amended in 1996, and to develop procedures for the electronic filing of requests for tariff relief.

Summary of Selected Recommendations

A summary of some of the Tribunal's recommendations issued during the fiscal year follows.

Certain Ring-spun Yarns

TA-2001-001

*Recommendation:
Continuation of Tariff Relief for 18 months
(May 3, 2002)*

The Tribunal recommended to the Minister of Finance that tariff relief, as provided for certain ring-spun yarns by tariff item Nos. 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 and 5509.53.40, be continued beyond June 30, 2002, for an additional period of 18 months.

In considering whether the tariff relief order should be renewed or amended, the Tribunal examined three specific issues: the availability of identical or substitutable ring-spun yarns from domestic producers and their comparability with the subject yarns; the substitutability of carded ring-spun yarns for combed ring-spun yarns; and the impact on operations should the tariff relief order be renewed.

Based on the evidence, the Tribunal was not convinced that the carded ring-spun yarns produced by Atlantic Yarns Inc. (Atlantic) were substitutable for combed ring-spun yarns required by the knitting industry. Furthermore, the Tribunal noted that, at the hearing, Atlantic stated that it was going to install nine combing machines in its facility in the summer of 2002, which indicated that Atlantic had recognized that it had to respond to the demand for such yarns. This also lent support to the argument made by the knitting industry that carded yarns are not substitutable for combed yarns.

The Tribunal noted that the evidence was clear that importers/users of the subject yarns had received significant benefits from the tariff relief. On the basis of the import data reported by Statistics Canada, for 1999, 2000 and the first nine months of 2001, primary direct benefits of tariff relief on the subject yarns were approximately \$4.6 million, \$4.5 million and \$2.6 million respectively. While Atlantic argued that, should the duties be re-introduced on the subject yarns, its identical or substitutable yarns would remain competitively priced with imports of the subject yarns, the Tribunal had difficulty in accepting the assertions put forth by Atlantic.

On the basis of the information available, the Tribunal believed that tariff relief would continue to provide a degree of stability for users of the subject yarns and provide benefits in the form of reduced costs, thereby enabling them to maintain their competitive position in a very price-sensitive marketplace. However, recognizing that Atlantic had provided sufficient evidence that it may

have the capability to produce identical or substitutable yarns in the not-too-distant future, the Tribunal recommended that tariff relief be extended for an 18-month period.

Doubletex

TR-2000-006

*Recommendation:
Indeterminate tariff relief
(July 3, 2002)*

The Tribunal recommended to the Minister of Finance that tariff relief be granted, for an indeterminate period of time, on importations from all countries, of (a) woven fabrics of cotton mixed solely with polyester staple fibres, unbleached or bleached, ring-spun, having a metric twist factor ($[\text{turns per metre}] \times [\text{square root of tex}] \times 0.01$) of 45 or more in the warp or the weft, of heading Nos. 52.08, 52.09, 52.10 and 52.11, for use by textile converters only to produce dyed and finished fabrics for the apparel and footwear industries; and (b) woven fabrics of polyester staple fibres mixed solely with cotton, unbleached or bleached, ring-spun, having a metric twist factor ($[\text{turns per metre}] \times [\text{square root of tex}] \times 0.01$) of 45 or more in the warp or the weft, of heading Nos. 55.12, 55.13 and 55.14, for use by textile converters only to produce dyed and finished fabrics for the apparel and footwear industries.

DIFCO Performance Fabrics Inc. (DIFCO) alleged that it had the capability to produce identical or substitutable fabrics that would meet Doubletex's requirements. However, the Tribunal noted that DIFCO did not provide any evidence to support a conclusion of imminent production and that it had not demonstrated, to the Tribunal's satisfaction, that it would be able, in the foreseeable future, to supply identical or substitutable fabrics to Doubletex and other potential buyers.

With regard to the issue of net economic impact, the Tribunal saw no cost as a result of the tariff relief requested by Doubletex. On the basis of the information available to the Tribunal, tariff relief would provide yearly benefits to Doubletex in excess of \$200,000. As for Doubletex's request for retroactive tariff relief, the Tribunal has stated, in previous cases, that it will not consider recommending such relief other than in exceptional circumstances. Doubletex provided no evidence to warrant such a recommendation.

**Gibson Textile Dyers
Ltd.**

TR-2001-001

*Recommendation:
Indeterminate tariff relief
(July 31, 2002)*

The Tribunal recommended to the Minister of Finance that tariff relief be granted, for an indeterminate period of time, on importations from all countries, of plain woven fabrics, solely of acrylic staple fibres made from 2-ply yarns, having a decitex per single yarn of 295 or more but not exceeding 315 decitex, of a weight of 280 g/m² or more but not exceeding 320 g/m², of subheading No. 5512.29, for use in the manufacture of retractable awnings and sun umbrellas.

Two textile mills, Cavalier Textiles Inc. (Cavalier) and Shuford Mills Inc. (Shuford), opposed the request. Cavalier submitted that it supplies yarns to Shuford, which is located in North Carolina, and that tariff relief on the subject fabrics would adversely affect its production of yarns destined for the United States. Shuford indicated that its business, including its ability to enter the Canadian market, would be negatively affected by tariff relief. However, the Tribunal was of the view that Cavalier had provided no quantitative evidence of the foreseen impact on its operation, should tariff relief be granted, and that Shuford's potential entry into the Canadian market was little more than speculation, as no tangible evidence had been submitted.

The Tribunal did not believe that there would be any direct commercial costs associated with the removal of the customs duty as requested. On the basis of the information available, tariff relief would provide yearly benefits of less than \$100,000 to users of the subject fabrics.

TABLE 1**Disposition of Requests for Tariff Relief**

Request No.	Requester	Textile Input	Date of Disposition	Status/Recommendations
TR-2000-006	Doubletex	Fabric	July 3, 2002	Indeterminate tariff relief
TR-2001-001	Gibson Textile Dyers Ltd.	Fabric	July 31, 2002	Indeterminate tariff relief
TR-2002-001	Richlu Manufacturing Ltd.	Fabric	Under investigation	
TR-2002-002	Peerless Clothing Inc.	Fabric	Under investigation	
TR-2002-003	Alpine Joe Sportwear Ltd.	Fabric	January 20, 2003	Request withdrawn
TR-2002-004	Cavalier Specialty Yarn Inc.	Fibre	Not yet initiated	
TR-2002-005	Peerless Clothing Inc.	Fabric	Under investigation	
TR-2002-006	C.S. Brooks Inc.	Fabric	Not yet initiated	
TR-2002-007	Peerless Clothing Inc.	Fabric	Under investigation	
TR-2002-008	Tribal Sportswear Inc.	Fabric	Under investigation	
TR-2002-009	Peerless Clothing Inc.	Fabric	Not yet initiated	
TR-2002-010	Ballin Inc.	Fabric	Not yet initiated	

TABLE 2

Disposition of Reviews of Tariff Relief Orders

Review No.	Expiry No. (Original Request No.)	Textile Input	Original Requester	Date of Disposition	Status/Recommendations
TA-2001-001	TE-2001-001 (TR-94-002)	Yarn	Kute-Knit Manufacturing Inc.	May 3, 2002	Continuation of tariff relief for 18 months
TA-2002-001	TE-2001-002 (TR-96-008 to TR-96-013)	Fabric Tulle Ribbons Padding	Les Collections Shan Inc.	October 24, 2002	Continuation of tariff relief

TABLE 3

Disposition of a Request for Reconsideration

Review No.	Original Review No.	Textile Input	Original Requester	Date of Disposition	Status/Recommendations
TA-2002-001A	TA-2002-001	Fabric Tulle Ribbons Padding	Les Collections Shan Inc.		Under investigation

TABLE 4**Tariff Relief Recommendations in Place**

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

Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-95-013A		Doubletex	5208.11.30 5208.12.40 5208.13.20 5208.19.30 5208.21.40 5208.22.20 5208.23.10 5208.29.20 5209.11.30 5209.12.20 5209.19.30 5209.21.20 5209.22.10 5209.29.20	Indeterminate
TR-95-036		Canadian Mill Supply Co. Ltd.	5208.21.20	Indeterminate
TR-95-037		Paris Star Knitting Mills Inc.	5408.24.11 5408.24.91 5408.34.10 5516.14.10 5516.24.10	Indeterminate
TR-95-051		Camp Mate Limited	5407.41.10 5407.42.10 5407.42.20 5903.20.22	Indeterminate
TR-95-053 and TR-95-059		Majestic Industries (Canada) Ltd. and Caulfeild Apparel Group Ltd.	5802.11.10 5802.19.10 5802.19.20	Indeterminate
TR-95-056		Sealy Canada Ltd.	3921.19.10 5407.69.10 5407.73.10 5407.94.10 5516.23.10 5903.90.21 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 5513.10.20 5513.12.10 5513.13.10 5514.11.10 5514.12.10 5514.13.10 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
TA-98-001	TE-97-004 (TR-95-009)	Certain dyed woven fabrics of rayon and polyester	5408.31.20 5408.32.30	Indeterminate
TA-98-002	TE-97-003 (TR-94-009)	Vinex FR-9B fabric	5512.99.10	Indeterminate
TA-98-003	TE-98-001 (TR-95-014)	Woven cut warp pile fabrics	5801.35.10	Indeterminate
TA-2001-001	TE-2001-001 TE-98-002 (TR-94-002 and TR-94-002A)	Certain ring-spun yarns	5205.14.20 5205.15.20 5205.24.20 5205.26.20 5205.27.20 5205.28.20 5205.35.20 5205.46.20 5205.47.20 5205.48.20 5206.14.10 5206.15.10 5206.24.10 5206.25.10 5509.53.10 5509.53.20 5509.53.30 5509.53.40	18-month tariff relief

PUBLICATIONS

June 2002	Annual Report for the Fiscal Year Ending March 31, 2002
June 2002	Bulletin—Vol. 14, No. 1*
September 2002	Bulletin—Vol. 14, No. 2*
October 2002	Departmental Performance Report for the Period Ending March 31, 2002
December 2002	Bulletin—Vol. 14, No. 3*
March 2003	Bulletin—Vol. 14, No. 4*
March 2003	Interim Guideline—Safeguard Inquiries—Import from China
	Safeguard Inquiry—Market Disruption—Imports from China—Guide for Complainant
	Safeguard Inquiry—Trade Diversion—Imports from China—Guide for Complainant
	A Report on Plans and Priorities for 2003-2004

* Available only on the Tribunal's Web site.

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