



# INFORMATION



## on appeals from customs, excise and SIMA decisions

### ABOUT THE CANADIAN INTERNATIONAL TRADE TRIBUNAL

The Canadian International Trade Tribunal (the Tribunal) is an independent administrative tribunal operating within Canada's trade remedies system. It is a quasi-judicial body that reports to Parliament through the Minister of Finance.

One of the responsibilities of the Tribunal is to hear appeals of decisions of the Minister of National Revenue (the Minister) or the Deputy Minister of National Revenue (the Deputy Minister). These appeals relate to some aspects of the *Excise Tax Act*, the *Special Import Measures Act* (SIMA) and the *Customs Act*.

### LEGISLATIVE BACKGROUND FOR APPEALS

The Tribunal is a court of record which accepts appeals under the *Excise Tax Act*, SIMA and the *Customs Act*. A person may appeal to the Tribunal to resolve a disagreement after having received a decision from the Minister or Deputy Minister. Appeals must be filed within 90 days after the person has received a decision. In certain circumstances, a time extension for filing an appeal may be permitted under the *Excise Tax Act*.

- a) Under the *Excise Tax Act*, a person may appeal the decision of the Minister about an assessment or determination for federal sales tax or excise tax.
- b) A person may appeal, under SIMA, a decision of the Deputy Minister concerning the following:
  - 1) whether imported goods are of the same description as goods found to have been dumped or subsidized and which are subject to an injury finding made by the Tribunal; or
  - 2) the normal value or the amount of a subsidy of those goods; or
  - 3) the export price of those goods.
- c) An appeal may be filed under the *Customs Act* after the Deputy Minister makes a decision relating to:
  - 1) the tariff classification and value for duty of goods imported into Canada; and
  - 2) the origin of goods imported from the United States and Mexico.



## TRIBUNAL PROCESS

### ***Starting the Process***

The Tribunal tries to be as informal and accessible as possible. However, certain procedures and time constraints have been imposed, among other reasons, to ensure fairness and to manage the process effectively.

The appeal process is set in motion with a notice (or letter) of appeal sent to the Secretary of the Tribunal. The notice of appeal must have been sent within the time limit specified in the act under which the appeal is made. A copy of the notice of the Minister's or Deputy Minister's decision should be included with the notice of appeal.

### ***Filing of Briefs***

The hearing date is generally set as soon as the notice of appeal is received, usually 120 days from receipt of notice of appeal, unless it is to be held outside Ottawa, Ontario. The Secretary of the Tribunal informs the appellant about submitting its case, called a "brief." The appellant normally has 60 days to submit its brief to the Tribunal. Generally, the brief states under which act the appeal is launched, indicates the issues in dispute between the appellant and the respondent (i.e. the Minister or Deputy Minister) and states why the appellant believes that the respondent's decision is incorrect. The appellant must also send a copy of the brief to the respondent and to any other party that the Tribunal may indicate.

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 Department of Justice acts on behalf of the respondent.

### ***Participation by Other Interested Parties***

Certain other people, such as a producer of a particular commodity, may be allowed to participate in an appeal. This person (an intervener) may have the same obligations and rights of those of the appellant and respondent regarding his participation or may have a circumscribed role if circumstances warrant it.

### ***Withdrawal of Appeals***

An appellant may withdraw all or any part of the appeal at any time by sending a letter to the Secretary of the Tribunal.

### ***Pre-Hearing Conference***

The Tribunal has an interest in ensuring that cases are processed quickly and fairly. As a result, the Tribunal may hold a pre-hearing conference to help resolve the case early or to ensure that it moves along at a quick pace. At the pre-hearing conference, the parties may discuss procedural issues and other outstanding matters.

### ***Oral Hearings***

Hearings are generally conducted by a panel of three Tribunal members and are open to the public. If circumstances allow, a single member of the Tribunal may conduct a hearing.

The Tribunal's hearings are somewhat less formal than those of a civil court. However, certain rules, such as those relating to the filing of briefs and expert witness reports, are followed to ensure orderly conduct and fairness. Proceedings are recorded. Parties may examine the transcripts at the Tribunal's offices or a copy may be obtained from the company that transcribed the proceedings.

The appellant is the first to present its evidence during a hearing. The respondent presents his evidence next. An intervener's evidence may be presented after either the appellant's or the respondent's case, depending on which party the intervener supports.

Evidence is presented orally, through testimony of witnesses or by way of other written documents. All parties have the right to question witnesses and to scrutinize evidence.

A sample of the product in issue is often provided. However, if this is not possible, a detailed description, photograph, videotape, brochure, etc., may be used. If a product is not involved (e.g. audit procedures for excise tax cases), appropriate documents should be presented in evidence.

The Tribunal hears most cases in Ottawa.

### ***Hearings by Way of Videoconferencing***

Videoconferencing technology allows an appellant another option for a hearing in some circumstances. This arrangement allows all the parties and the Tribunal to save the cost of travelling. Any documents or physical evidence to be presented must be submitted to the Tribunal prior to the videoconference hearing.

### **File Hearings**

The appellant also has the option of a file hearing. When an oral hearing is not required, the Tribunal may consider the matter on the basis of the written information before it. Both the appellant and the respondent and any intervener must agree to the holding of a file hearing. They must file with the Tribunal an agreed statement of facts, as well as their submissions.

### **Canada Gazette**

The Tribunal publishes schedules of hearings and decisions in the *Canada Gazette*, Part I so that other interested parties can make their views known.

### **Issuing Decisions**

The Tribunal issues its decision on the matters in dispute as soon as possible after a hearing.

### **Judicial Review**

If any party disagrees with the Tribunal's decision, it can appeal the decision to the Federal Court of Canada.

## **INTERACTING WITH THE TRIBUNAL**

This document is one of a series which describes the work of the Tribunal. Others in the series include:

- Introductory Guide on the Canadian International Trade Tribunal
- Information on Dumping and Subsidizing Inquiries and Reviews
- Information on Textile Tariff Investigations
- Information on Procurement Review

These documents provide general information only. When interpreting and applying the law, readers should refer to the *Canadian International Trade Tribunal Act*, its Regulations, the statutes that the Tribunal administers and the *Canadian International Trade Tribunal Rules*.

The Office of the Secretary of the Tribunal will provide more detailed information on the handling of individual cases. For more information, dial **(613) 993-3595**.

### **Internet, Bulletin Board Service and Factsline 24 hours a day, 7 days a week**

The Tribunal operates a Web site on the Internet. The site provides general information about the Tribunal, publications of the Tribunal, as well as notices, appeal decisions, advices, findings, orders, statements of reasons, procurement review determinations and textile recommendations. The Tribunal's Web site address is **www.citt.gc.ca**.

The Tribunal also operates an electronic bulletin board service (BBS) containing the following publications: notices, appeal decisions, advices, findings, orders, statements of reasons, procurement review determinations and textile recommendations. Dial either **(613) 990-7605** or **(613) 993-0722**.

The Tribunal's *Factsline* also makes available the publications listed above. This service can be accessed by dialing **(613) 956-7139** using a telecopier telephone and requesting document 1196, which is an index of the documents available.

## **THE BULLETIN**

In addition to the Web site, the BBS and *Factsline*, the Tribunal publishes the *Bulletin*. This quarterly report provides brief descriptions of decisions issued, cases under consideration, appeal withdrawals, notice of hearings and other information about cases appealed or referred to the Tribunal. To be added to the mailing list, dial **(613) 993-3595**.

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