

Canadian International Trade Tribunal

2005-2006

Departmental Performance Report

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**James M. Flaherty
Minister of Finance**

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SECTION I—OVERVIEW

Chairperson's Message

I am pleased to present the Departmental Performance Report of the Canadian International Trade Tribunal (the Tribunal) for fiscal year 2005-2006.

One of the Tribunal's principal objectives is to ensure that Canada's business community and the public have access to a fair and transparent process to settle trade disputes. In so doing, the Tribunal contributes to Canada's competitiveness in the global trade environment. The Tribunal conducts trade-related injury inquiries (i.e. dumping, subsidizing, and global and Chinese safeguards), hears complaints regarding federal government procurement, and hears appeals from decisions of the Canada Revenue Agency (CRA) and the Canada Border Services Agency (CBSA). In its advisory role, the Tribunal undertakes general economic inquiries and tariff references for the Minister of Finance or the Governor in Council.

The Tribunal issued its decisions within statutory deadlines and maintained high-quality standards of research and analysis, despite a heavy caseload and resource pressures. Elapsed times for issuing decisions not subject to statutory deadlines increased slightly this year; however, an improved multi-disciplinary approach to appeals work resulted in a more effective disposition process for appeals. This work is expected to result in improved turnaround times in 2006-2007.

The Tribunal has maintained a strong record in terms of its decisions being upheld by national and international appeal bodies and continues to play a key role in fostering a Canadian trading system that is transparent and accessible and meets international obligations.

The Tribunal has continued to make progress towards communicating electronically with parties, the key focus being on changes to its information technology infrastructure in order to ensure the security and confidentiality of information.

Finally, the Tribunal made a number of improvements to its management practices and completed the implementation of key provisions of the *Public Service Modernization Act*.

Pierre Gosselin

Management Representation Statement

I submit, for tabling in Parliament, the 2005-2006 Departmental Performance Report for the Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of 2005-2006 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*.

- It adheres to the specific reporting requirements outlined in the TBS guidance;
- It is based on the Tribunal's approved Program Activity Architecture structure as reflected in its MRRS;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada in the DPR.

Julia Ginley
Director
Management Services

Legislative Context

The Tribunal acts as an independent, quasi-judicial, decision-making body that is accountable to Parliament through the Minister of Finance. The Tribunal is composed of up to 9 (currently 7) full-time members, including a chairperson and 2 vice-chairpersons, and is supported by a permanent staff of 87 persons, who are responsible for court registry functions, the research and investigation of cases, legal services to the members and staff, and corporate services. It derives its authority from the *Canadian International Trade Tribunal Act (CITT Act)*, the *Special Import Measures Act (SIMA)*, the *Customs Act* and the *Excise Tax Act*. Its objective is to provide a fair and efficient trade remedies system to the Canadian public and the private sector and to offer the government, through its fact-finding inquiries and standing references, the best advice available so that it can formulate strategies for making the Canadian business sector better able to provide jobs and growth in today's globalized commercial environment.

Under the *CITT Act*, the Tribunal is empowered, on complaint by an interested party or as directed by the government, to carry out import safeguard inquiries into rapid increases of foreign imports (including through special procedures for imports specifically from the People's Republic of China [China]) and to formulate recommendations to the government for dealing with them. Under *SIMA*, it conducts inquiries into whether dumped and/or subsidized imports have injured Canadian manufacturers. Pursuant to the *Customs Act*, the *Excise Tax Act* and *SIMA*, the Tribunal is empowered to deal with appeals from decisions of the CRA and the CBSA on various excise and customs matters. With the implementation of the *North American Free Trade Agreement (NAFTA)*, its mandate was expanded to include reviewing bid challenges on federal government procurement matters. The Tribunal has also been designated as the bid challenge authority under the *Agreement on Internal Trade (AIT)* and the World Trade Organization (WTO) *Agreement on Government Procurement (AGP)*.

Tribunal's Mission

The Tribunal's main objective is to provide the public with easy access to its services so that it can efficiently and effectively adjudicate, within tight statutory deadlines, the cases referred to it. In its **quasi-judicial role**, its caseload is comprised of:

- Unfair trade cases—inquiries under *SIMA* into whether dumped or subsidized imports have caused or are threatening to cause injury to a Canadian industry
- Safeguard cases—inquiries into whether the rapid buildup of imports from China, or from around the world, is causing injury to a Canadian industry
- Appeals of decisions of the CBSA made under the *Customs Act* and *SIMA* and appeals of decisions of the CRA under the *Excise Tax Act*
- Bid challenges—inquiries into complaints by potential suppliers concerning federal government procurement under *NAFTA*, the *AIT* and the *AGP*

The Tribunal also plays an **advisory role** for the government by conducting general economic inquiries and references, in particular:

- Safeguard cases—where the Tribunal finds serious injury to a Canadian industry, the Governor in Council may request it to recommend appropriate measures for dealing with the buildup of imports
- Tariff and general economic inquiries referred by the government—inquiries and advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance
- Standing tariff references from the Minister of Finance—investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their production

The Tribunal obtains its operating budget through the Main Estimates process. It does not receive funds through grants and contributions or through cost recovery of its operational expenditures.

More detailed information on the Tribunal and its caseload is available on its Web site at www.citt-tcce.gc.ca.

Benefits to Canadians

Canadians benefit from the Tribunal through the enjoyment of:

- Access to fair and efficient processes for investigating complaints of economic injury from unfairly traded imports
- Protection of Canadian businesses against unfair and injurious competition
- Access to a fair and efficient process for investigating complaints of unfair government procurement decisions
- Compliance with Canada's obligations under the WTO, *NAFTA* and other trade agreements
- Reliable economic and trade analysis and advice for the government's policy-making function
- Ultimately, a fair and open trading system for individual Canadians and the Canadian business sector

Challenges and Risks

Overall, the Tribunal delivers an indispensable trade adjudication service in the face of an unpredictable caseload and a complex environment. Highlights of specific challenges and risks, faced by the Tribunal in 2005-2006, are provided below:

- **Impact of economic factors.** The Canadian apparel and textile industries have been challenged by increasing competition from abroad, as these markets continue to globalize and as textile and tariff quotas were removed at the end

of 2004, consistent with Canada's commitments to the WTO. As part of a set of initiatives to improve the competitiveness of the Canadian industries, the Minister of Finance sent two tariff references to the Tribunal that were in progress in 2005-2006. The Tribunal completed one tariff reference during the fiscal year, and a second was in progress at year end.

- **Prevalence of electronic communications in courts and tribunals.** Increasingly, parties and their counsel appearing before the Tribunal expect to be able to interface with it electronically, as they now do with the courts and other tribunals. This includes the ability to submit applications and supporting documentation electronically, to access case information electronically and to be able to communicate with the Tribunal and other parties electronically and securely. The Tribunal has continued its efforts to automate the hearing rooms. Also, plans were established to implement Secure Channel to create a secure file transfer facility, and work should be completed on both of these initiatives in 2006-2007. Work was undertaken to address technical issues relating to remote access of case data, and functional requirements were completed for the filing of electronic questionnaires. All measures are taken to ensure security of information before electronic vehicles are implemented.
- **Ensuring the continuity of expertise of the Tribunal.** The Tribunal's workforce is highly specialized, having developed its competencies through a number of years. The Tribunal is in a challenging period, since a number of senior and knowledgeable personnel retired or will be retiring over the next few years. In fiscal year 2005-2006, eight key staff members retired, including two members (both vice-chairpersons). Consequently, the Tribunal devoted significant time to the recruitment for key positions and continues to maintain a strong focus on training and human resource planning.
- **Unpredictable caseload and complexity of cases.** The Tribunal's workload is externally generated, and it has no ability to affect the volume of its intake of cases. This challenge is increased by the fact that, for the key areas of its mandate (dumping and subsidizing, government procurement, safeguards and government references), the Tribunal's findings and recommendations are subject to tight statutory or government-mandated deadlines. In 2005-2006, the Tribunal responded to the demands of two government references and five safeguard complaints. Compared to other types of cases, government references and safeguard cases demand more resources because the issues to be addressed are broader and the cases are larger. There were fewer dumping/subsidizing cases and procurement cases in 2005-2006 than in recent years, but the cases were far more complex. The number of appeal decisions issued in 2005-2006 doubled as a result of the creation of a dedicated appeal team. One of the Tribunal's main challenges, in the fiscal year, was having on strength the appropriate mix of competencies to deal effectively with the allocation of limited resources to allow statutory deadlines to be met and concurrent operational requirements associated with the various areas of its mandate to be considered in a timely manner. In order to successfully address this challenge, it was necessary for the Tribunal to make

increased use of temporary resources, students and staff in term, contract and casual positions.

- **Managing with fewer resources.** As is the case with other departments, the Tribunal has been faced with funding cuts to fulfill the government's savings commitments—this has limited its ability to manage retirements and to start rebuilding the workforce. In the last two years, the Tribunal's resource levels were reduced by \$189,000 as part of government-wide re-allocation and saving measures; this represents a significant challenge for the Tribunal. The Tribunal has limited flexibility in its budget—approximately 85 percent of the Tribunal's annual expenditures have been allocated to salaries and benefits, and about 75 percent of operating expenditures consist of non-discretionary expenditures that are required in a quasi-judicial organization, i.e. technology, telecommunications, translation, court reporting, printing, publishing, and mail and courier services. Accordingly, budget reductions have had a disproportionate impact on training and development, technology improvements and related initiatives, as the Tribunal has less capacity to address these issues.

Results and Priorities

The Tribunal has a single strategic outcome:

Fair, timely and effective disposition of international trade cases and government-mandated inquiries in various areas of the Tribunal's jurisdiction

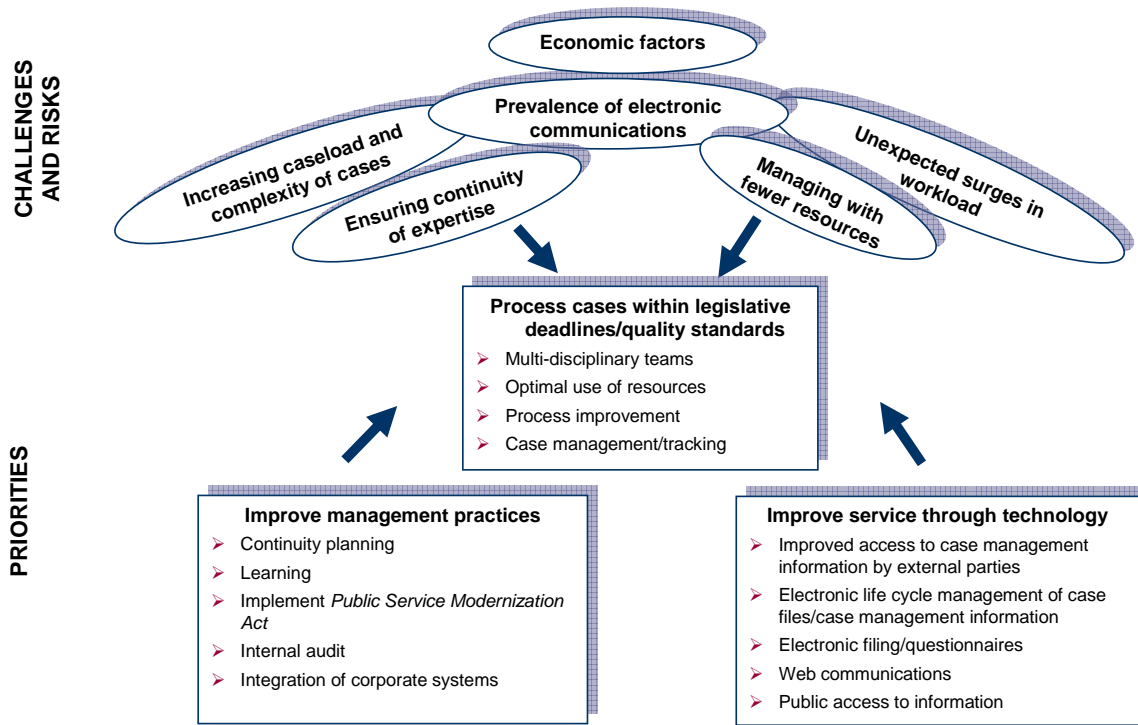
The result to be achieved in support of this strategic outcome is that the Tribunal's decisions and recommendations are fair and impartial (and are viewed as such by stakeholders) and are published in a timely way (in terms of quality and meeting statutory and internal deadlines).

Under the new Program Activity Architecture, the Tribunal has two activities that contribute to the above result. These are: adjudication of trade cases (quasi-judicial role) and general economic inquiries and references (advisory role).

The Tribunal's priorities have remained the same for a number of years. These are to: process cases within legislative deadlines/quality standards; improve service through technology; and improve Tribunal management practices.

The relationship between the activities, priorities, results and strategic outcome is summarized in the chart below.

Overall Strategy of the Tribunal



Resources

The Tribunal's resources during 2005-2006 are summarized below.

Total Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
9,659	10,949	10,581

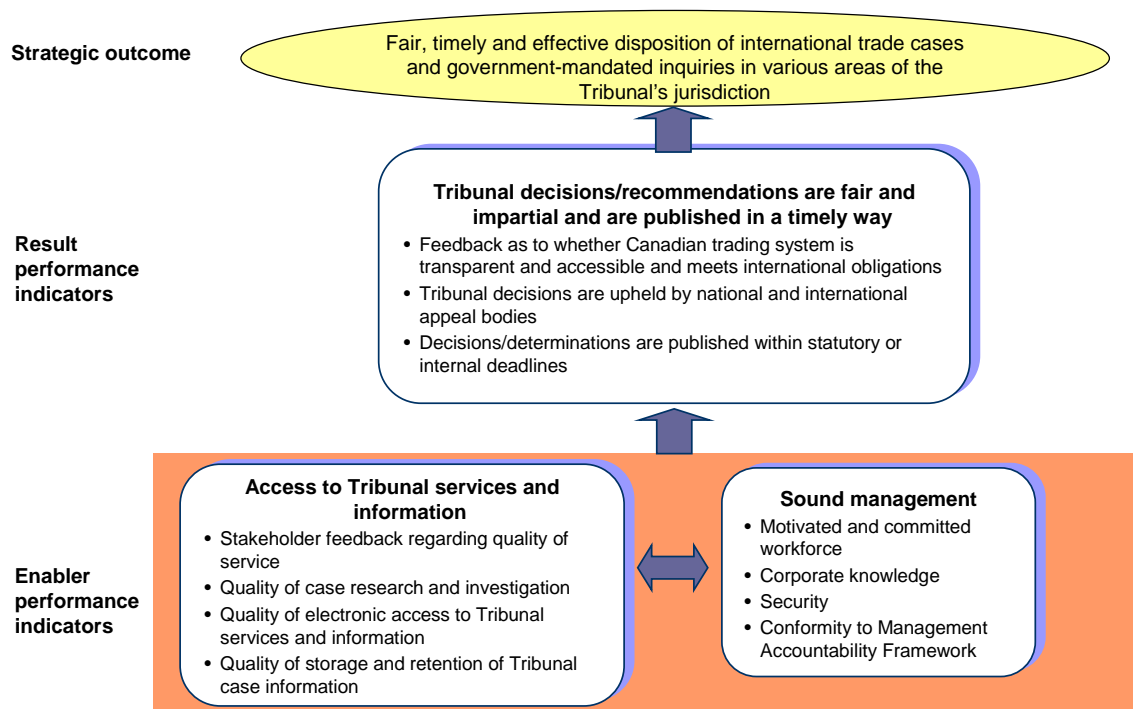
Total Human Resources (FTE)

Planned	Actual	Difference
94	85	9

Performance Measurement Framework

The Tribunal has developed performance indicators as part of its planning and reporting framework in order to measure performance. These performance indicators are summarized in the chart below. The indicators are at an initial stage of development and will continue to be refined over time, as the Tribunal gains experience in their application.

Performance Indicators



Summary of Performance

An overall assessment of the Tribunal's performance is provided below based on its three ongoing priorities.

The Tribunal issued its decisions within the statutory deadlines, despite a heavy caseload. Although some delays still occurred in appeal decisions, which are not subject to statutory deadlines, the number of outstanding cases is decreasing as a result of the creation of a dedicated appeals unit.

The Tribunal continues to make progress in providing external parties access to Tribunal services and information electronically, with the ultimate aim of enabling parties to file electronically with full protection of the security and confidentiality of the information.

Finally, the Tribunal made a number of technology and management improvements to support its mandate. The following table provides highlights of the Tribunal's performance against its strategic outcome and priorities.

Summary of Performance in Relation to Strategic Outcome and Priorities

Strategic Outcome	2005-2006 Priorities	Type	Current Status	Overall Assessment
Fair, timely and effective disposition of international trade cases and government-mandated inquiries in various areas of the Tribunal's jurisdiction	Process cases within legislative deadlines/quality standards	Ongoing	Met	<ul style="list-style-type: none"> • Issued decisions as per statutory deadlines • Some delays remain in issuing appeal decisions, which are not subject to statutory deadlines; however, the number of decisions issued has increased to more than double from previous year • In 2005-2006, one Tribunal decision was remanded by the Federal Court of Appeal. This remand did not question the finding, only the remedy • Continued to meet international obligations
	Improve service through technology	Ongoing	Met	<ul style="list-style-type: none"> • All results identified for 2005-2006 were achieved
	Improve management practices	Ongoing	Not fully met	<ul style="list-style-type: none"> • All management results identified for 2005-2006 were achieved except for financial audit. Results achieved included but are not limited to the following: • The Tribunal met all of its timelines for implementation of the <i>Public Service Employment Act (PSEA)</i> and is being reported by the Public Service Commission as one of the top performing organizations • Updated financial and human resources delegation instruments • Completed integration financial systems • Improved security • Enhanced Tribunal governance framework

Performance by Priority/Performance Indicator

Highlights of the Tribunal's performance in relation to each of the three priorities and its performance indicators are described below.

Priority I: Processing cases within legislative deadlines/quality standards

The key ongoing priority of the Tribunal is to hear cases and make sound decisions expeditiously on matters that fall within its jurisdiction pursuant to acts of Parliament, particularly cases that have legislative deadlines. In doing so, the Tribunal has strived to respect timelines and maintain the quality of its findings, determinations and recommendations. Specific achievements include the following.

- **Decisions were issued as per statutory deadlines.** All decisions/determinations subject to statutory deadlines (i.e. dumping and/or subsidizing and procurement complaint cases) were issued within the established statutory deadlines. Furthermore, internal procedures relating to case processing in general and *SIMA*

cases in particular were reviewed and updated to improve efficiency and facilitate learning by new staff.

- **Elapsed times for the production of appeal decisions, which were not subject to statutory deadlines, did not meet internal standard.** The Tribunal has adopted an informal, voluntary standard of publishing appeal decisions within 120 days of the hearing, given that there is no statutory deadline in place. To achieve this deadline, the Tribunal strives to maintain a strong discipline of case management and tracking to ensure compliance with milestones and to ensure the optimal scheduling and use of staff resources between investigations. Unfortunately, due to the added workload in the case work under statutory deadlines and internal resource pressures, elapsed times for producing appeals decisions exceeded the internal standard of 120 days in slightly over half the cases.

In 2005-2006, a dedicated appeals team was set up and the appeals process was re-engineered to address this issue. Monthly litigation and appeals reports were implemented to more closely monitor progress. As a result, it is expected that, in 2006-2007, the average elapsed time for issuing appeal decisions will rarely exceed the internal standard.

- **Tribunal decisions were upheld on judicial review.** An indicator of the soundness of Tribunal decisions is the number of decisions that are upheld. In 2005-2006, the Federal Court of Appeal dealt with 10 requests for judicial review of Tribunal determinations and decisions. Two of those applications were discontinued. The Federal Court of Appeal remanded one decision to the Tribunal, but, in that case, the Tribunal's finding on the central issue was upheld and only the form of remedy was challenged. Seven cases were still outstanding at year end.
- **The Tribunal's processes are perceived as transparent and accessible and meet international obligations.** The WTO publishes comments every two years, through its Trade Policy Review mechanism, on whether Canada and the Tribunal have fostered a fair and open trading system that is transparent and accessible and meets international obligations. In its last Trade Policy Review for Canada, the WTO, in 2003, characterized Canada's trade regime as amongst the "world's most transparent and liberal". The next WTO Trade Policy Review for Canada will take place in 2007.
- **Stakeholder feedback regarding quality of service was positive.** The level of satisfaction of stakeholders with the Tribunal's procedures and guidelines entails a number of considerations, for example, the response time with regard to requests for information, the effectiveness of the Tribunal's procedures and the overall efficiency of the adjudication process. Stakeholder feedback on the procedures and rules is obtained through the Bench and Bar Committee (the Committee). The Committee serves as a forum to discuss procedural issues of common interest. It is composed of lawyers nominated by the Canadian Bar Association and the Department of Justice and trade consultants invited by the Tribunal. The Committee held one meeting during 2005-2006. This meeting of

the Committee provided an opportunity for participants to present their views about the Tribunal's processes and procedures. The Committee was consulted on a proposed new protocol for transmitting confidential information by e-mail, and it welcomed the enhanced capability. As well, supplementary guidelines on the handling of confidential information in documents filed electronically by parties was tabled and discussed.

- **High-quality standards were maintained in case research and analysis despite resource pressures.** The Tribunal continued to bring staff expertise together around each case through multi-disciplinary and cross-functional teams to ensure the highest level of expertise appropriate to each case. It also implemented rigorous quality controls for each case through internal peer review approvals, editing of research reports and evaluations at the end of each case.

Research reports were found, by the members and parties, to be objective and accurate. The communication of the information in the reports was transparent, while ensuring the protection of proprietary business information. When required by a case, research reports were issued in both official languages and the public versions were posted on the Tribunal's Web site.

- **Tribunal recommendations meet the business requirements of the Government.** From time to time, the Tribunal, at the request of the Government or pursuant to its legislative mandate, provides independent advice and recommendations to the Government. This advice assists the Government in making informed policy decisions. In 2005-2006, the Government implemented the Tribunal's recommendations for the elimination of tariffs on 341 tariff items affecting a wide range of fibres, yarns and fabrics not made in Canada. As well, it implemented the Tribunal's public interest recommendations to reduce anti-dumping duties on certain stainless steel round wire. In May 2006, the Government implemented the Tribunal's recommendation for tariff relief on certain yarns used in the manufacture of swimwear fabrics. Later the same month, the Government announced that it would not implement the imposition of surtaxes on imported bicycles and barbeques, as recommended by the Tribunal.

Priority II: Improving service through technology

The Tribunal has made significant efforts to improve the delivery of services to parties and their counsel by leveraging information technology for better, faster and more efficient service. For a number of years, it has undertaken initiatives to improve electronic access to information by both internal users (members and staff) and external users (litigants and their counsel).

- **Continue ongoing technology improvements.** The Tribunal has been improving the technology infrastructure to improve the ability to work from home and provide secure remote access to case information to Tribunal staff and counsel representing parties.
- **Improved security of information.** The Tribunal handles confidential business information and is very diligent about protecting that information. Secure Channel

is being implemented to establish a secure infrastructure/platform to enable clients to submit files electronically. Most of the work to implement Secure Channel was completed in fiscal year 2005-2006. Secure Channel will be ready to use by the end of first quarter 2006-2007. Secure Channel will allow for the secure electronic file transfer of any information relating to Tribunal cases, plus support the e-questionnaire and remote access projects referred to above. The Tribunal has also enhanced information security by improving security around external access to the Tribunal network (e.g. spyware, spam and firewall protection) and by improving the security of the electronic versions of staff reports.

- **Implement electronic life cycle management of case files.** The ultimate objective is to automate and integrate all the information around a case and to provide full electronic filing once confidentiality and legal issues have been resolved. The Tribunal obtained Government On-Line (GOL) funds of \$136,000 (\$68,000 in 2004-2005 and \$68,000 in 2005-2006) to apply the Policy on the Management of Government Information to *SIMA* case files in partnership with the CBSA and the Library and Archives Canada.

The Tribunal has reviewed its information management practices to ensure compliance with the management of information policy of the Government of Canada. The policy promotes the e-record as the record of choice. The GOL funding was used to review the *SIMA* case process (the most complex of the cases) and define the requirements for the electronic life cycle management of *SIMA* cases. In fiscal year 2005-2006, the Tribunal:

- completed the document standards for *SIMA* case files;
 - completed the functional requirements for remote access of *SIMA* case file information which will ultimately eliminate the need for the Tribunal to reproduce volumes of paper for counsel;
 - completed the functional requirements for the development, completion and submission of electronic questionnaires and analysis of the data therein; and
 - has shared, with other departments, the methodology and lessons learned in conducting these projects using GOL funds.
- **Improve scope of information available to the public.** The Tribunal continued to provide public accessibility to information in both official languages, including information regarding its mandate and procedures, over-the-counter services, written and oral communications with the public and the efficient processing of documents relevant to eventual proceedings before the Tribunal. In a number of *SIMA* cases, parties were not represented by counsel; consequently, the Secretariat was required to pay special attention to their needs and provide guidance to them on the Tribunal's administrative and judicial process.
 - **Continue to improve communications through its Web site.** The Tribunal continued to make strategic use of its Web site to communicate with various groups of stakeholders and the public and to ensure that stakeholders have a clear understanding of its jurisdiction. For example, the Web site is used to communicate and distribute documents, thus significantly enhancing the quality

of services to those participating or interested in the Tribunal's cases. The Web site allows its users to register, free of charge, for a subscriber alert service that informs them when new documents are posted, allows potential suppliers to download a procurement complaint form and allows interested parties to download and complete electronic versions of Tribunal questionnaires. A repository of all documents produced by the Tribunal allows for research into past decisions. The Tribunal plans to migrate to a new technology platform that will enable stakeholders to access Tribunal case documents electronically through the Web site and view documents electronically. All functional and security requirements have been addressed, but a number of technical requirements still remain to be addressed.

Priority III: Improving management practices

The Tribunal continues to assess and improve its management practices. The focus in 2005-2006 was on human resources management, as people are the Tribunal's key resource. The following are some specific achievements.

- **Implemented the *PSEA* portion of the *Public Service Modernization Act (PSMA)*:** The *PSMA* has brought about changes in the way the federal public service hires and manages its employees. As is the case government-wide, the Tribunal began, during 2004-2005, to align its human resource practices with the requirements of the act. A detailed action plan was developed in 2004-2005 to prepare for the implementation of the *PSEA*. The Tribunal met all of its timelines for implementing the *PSEA*, despite the fact that the implementation posed significant resource challenges. One of the key elements contributing to this success was participating as an active member of a five organization HR Coop, where participants leveraged the resources and expertise of member organizations. Based on the Public Service Commission's Assessment of the Staffing Management Accountability Framework, the Tribunal will be listed as one of the top performing organizations.
- **Developed human resources continuity plans.** Maintaining continuity in the Tribunal's corporate knowledge requires a sustained focus on documenting procedures, training, recruitment, Human Resource Management and succession planning. In 2005-2006, the Tribunal began its review of key positions and the development of succession plans that will be integrated into the business plan in 2006-2007. New recruitment and development approaches and strategies were implemented to facilitate succession in key positions, including the introduction of some developmental positions.
- **Continued development and implementation of a Tribunal learning strategy.** The Tribunal has continued to develop in-house training programs, create position papers on special topics and share lessons learned by staff and members. A seminar series for members and staff on case issues and case management was implemented in 2005-2006, and an orientation program was developed that integrates Public Service and Tribunal values and ethics. Some on-the-job training programs have been developed, and a virtual library of training materials for

members and staff has been established. All managers with delegated staffing authority received the required training for the implementation of the *PSEA*.

- **Planned internal audit not completed.** The Tribunal was unable to carry out the planned audit of the Financial Function in 2005-2006 because of resource constraints and plans to complete that audit in 2006-2007.
- **Integration of corporate systems.** The corporate systems have all now been integrated into GX, one of the Government's approved interim systems. The asset module, the last one to be integrated was completed this fiscal year. This has reduced the requirement for duplicate entries and maintenance costs and will, in the long term, ensure better data integrity and provide more timely information to managers.
- **Other management practices.** In 2005-2006, the Tribunal undertook a number of other initiatives to improve management practices, including:
 - Launching a formal awards and recognition program;
 - Contributing to the procurement savings review, directly and as an active member of the Small Agency Administrative Network (SAAN) and providing input into the adaptability of the general approach to small agencies;
 - Strengthening internal governance and communication—reviewed and revised terms of reference for Executive (ExCom), Senior Staff Committee (SSC) and labour management consultative committee. Management meetings are now held weekly or bi-weekly in each branch, as well as annual branch retreats. The Tribunal held an all-staff retreat in 2005-2006 to address issues of concern to staff. An action plan was developed and is being implemented to address concerns raised. Increased use of intranet to post policies, procedures, terms of reference etc., for better access by employees;
 - Assessing the Tribunal's Management Accountability Framework (MAF) in cooperation with TBS and the Public Service Human Resources Management Agency of Canada. Results are expected in 2006-2007.

A summary of the Tribunal's performance for each of its performance indicators is presented below, based on a five-level performance scale (major gap, below target, approaching target, at target and above target). The shaded areas represent the Tribunal's assessment of its performance during 2005-2006.

Summary of Tribunal Performance in Relation to Performance Indicators

Performance Indicator	Performance Scale				
	Major gap	Below target	Approaching target	At target	Best-in-class
<i>Tribunal decisions/recommendations are fair and impartial, and are published in a timely manner</i>					
<i>Decisions/determinations are published within statutory or internal deadlines</i>	A number of statutory deadlines were missed.	Most statutory deadlines were met.	All decisions issued as per statutory deadlines. Some quality issues.	All statutory deadlines were met. High standard of quality maintained.	Case processing time is less than targeted. Cases issued in both official languages as per deadline.
<i>Appeals issued within internal deadlines</i>	A number of case deadlines were missed.	Time lapse exceeds target, and backlog is above norm.	Not all deadlines were met. Time lapse is stable, and backlog is stable or decreasing.	All deadlines were met. Overall time lapse is decreasing.	Case processing time is less than targeted. Overall time lapse for processing cases is decreasing. Backlog is minimal.
<i>Tribunal decisions are upheld by national and international appeal bodies</i>	A very large number of Tribunal decisions are overturned.	A very large number of decisions are subject to an application for judicial review.	A significant number of Tribunal decisions are overturned, requiring changes to its procedures.	A small number of decisions are overturned.	A small number of decisions are subject to an application for judicial review.
<i>Feedback as to whether Canadian trading system is transparent, accessible, and meets international obligations</i>	Canadian trading system has low level of credibility internationally.	WTO has expressed concerns about Canadian trading system. This is hurting reputation, Canadian trading system, and impeding trade discussions.	WTO has expressed some minor concerns about openness of Canadian trading system.	Canadian trading system is perceived to be fair and open and to have high level of transparency and accessibility. Canada is perceived to have met its international obligations.	Tribunal has high level of credibility in international trade community and is sought out for its expertise by other national authorities.
<i>Improved service delivery</i>					
<i>Stakeholder feedback re quality of service</i>	High frequency of complaints. No survey of stakeholder satisfaction.	Informal feedback is received from stakeholders. Some complaints and concerns. Specific client issues are being addressed.	Positive stakeholder feedback received informally. Complaints are minimal. Some errors, but corrected before they affect external stakeholders.	High stakeholder satisfaction. Issues are resolved quickly. Responsive and efficient service. Good access to information. Few errors.	High stakeholder satisfaction as per stakeholder surveys. Many examples of positive feedback received.
<i>Quality of case research and investigation</i>	Major rewrites were required of staff research reports after their release. Members were critical of quality of research reports. Parties had major objections to factual content of research.	Significant rework was required after the release of staff reports. Member feedback was not always positive. Parties had concerns about inaccuracies.	Some changes were made to reports after release. Not all reviews met quality expectations. Members generally provided positive feedback. Few factual corrections identified by parties.	Changes required to reports after release to reflect updates and revisions made by parties. Members provided positive feedback to most reports. Very few factual inaccuracies identified by parties.	Members and parties provided very positive feedback on a number of cases regarding research and analysis. Quality exceeded expectations.
<i>Quality of electronic access to Tribunal services and information</i>	Paper filing of cases only. Public has access to Web site for general information. Internal processes are mainly paper based.	External users have limited access to Tribunal services electronically. Electronic services are cumbersome and time consuming. Little or no integration between electronic services and Tribunal systems. Security of information cannot be guaranteed.	Some electronic services are accessible to external users. Secure electronic document transfer. External/internal users have electronic access to most current case information. Partial integration between electronic services and Tribunal systems.	Electronic services are easily accessible to external users. Security measures are in place. Good access to case information electronically. Case information is shared electronically between the parties. Electronic services are closely integrated with Tribunal systems.	Latest technology in place. Full integration between electronic services and Tribunal systems. Extensive system flexibility. Electronic services are adaptable to different user technical environments.
<i>Security of information</i>	Have not conducted security assessment. Responsibility for security is unclear. Limited awareness among employees and stakeholders. A number of significant security incidents.	Some significant security incidents. Information security gaps exist but are being addressed. Inconsistent awareness among employees and stakeholders of security requirements.	No major security incidents. Some minor security gaps have been identified and are being addressed. Increasing awareness among employees and stakeholders.	Some minor security incidents. Measures are in place to address security incidents. Security level is considered sufficient as per Threat and Risk Assessment (TRA) /audit. Employees and stakeholders have high degree of awareness of security requirements.	No security gaps identified by TRAs/audits. No security incidents.

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Performance Indicator	Performance Scale				
	Major gap	Below target	Approaching target	At target	Best-in-class
<i>Sound management</i>					
<i>Motivated and committed workforce</i>	Employee satisfaction is well below government-wide norms. Very high turnover and/or absenteeism. Morale issues exist. Staff relations work disruptions.	Results of employee surveys are below norm. High turnover rate and/or absenteeism compared to other departments/agencies. Morale issues exist.	Employee satisfaction levels are below norm. Turnover is high. Efforts are underway to improve employee satisfaction and retention. Some grievances and employee relations issues.	Employee satisfaction has been improving as per survey results. Staff retention is close to target levels. Staff has access to learning and development opportunities.	Consistently satisfactory results in employee surveys. Staff retention is within target levels. Positive employee feedback re work environment. Strong internal communications.
<i>Retention and renewal of workforce</i>	Major skill gaps exist. No overall approach or plan for renewing workforce.	Employee competencies vary. Significant gaps exist in competencies. High degree of turnover. No back-up. High number of vacant positions. Competencies have not been documented.	Some gaps in competencies. Limited back-up. Delays in staffing positions. Competencies required have been identified for most position types. Individual learning plans in place. Competency gaps are being addressed.	Most staff have required competencies. Vacancies are addressed quickly. Back fill exists for key positions. Ongoing training and learning opportunities available to staff. Effective transfer of expertise to new staff.	Strong back fill for most positions. Strong focus on learning and succession planning. Staff is recruited elsewhere for their expertise.
<i>Corporate knowledge</i>	Processes are not documented. No standardized approach. Historical information is limited.	Staff has access to policies, processes and guidelines on intranet, but they are not up-to-date. Historical information is difficult to access. Significant gaps exist in capabilities.	Staff has access to policies, processes and guidelines on intranet (about 60%). Historical information is available but is dispersed. Duplication in tools available.	Staff has access to policies, processes and guidelines on intranet (over 80%). Good access to tools. Historical information is easily accessible. Strong orientation program for new staff.	Staff has ready access to policies, processes, guidelines, tools, and historical information from desktop. Strong focus on learning, succession planning and staff development.
<i>System reliability</i>	Major user complaints. Major disruptions to services due to system downtime. A lot of uncertainty around system reliability.	Major technology gaps or operating deficiencies. Delays and inconvenience in accessing information. Significant disruptions to services due to system downtime.	Technologies generally meet user requirements. Timely and convenient user access. Users are generally satisfied. Technology meets most industry standards. Brief disruptions to services.	Technologies meet user needs and conform to all government/judicial standards. High user satisfaction. Systems use latest technology. Systems downtime had no operational impact.	High integration of information and technologies. State-of-the-art technology. Users are active in defining new products and services. No disruptions. No security gaps or infractions.
<i>Conformity to MAF</i>	MAF expectations have been met for only one or two elements. Management practices need to be put in place.	MAF expectations have been met for roughly half of 10 elements. Management practices for other elements are still at the developing stage	MAF expectations have been met for most elements. Improvement projects are ongoing. Improvement projects are on time and within budget.	MAF expectations have been met for all 10 elements. Management practices are assessed on a yearly basis. Focus is on continuous improvement.	MAF expectations have been met for all 10 elements and have been exceeded for some elements.

SECTION II—PERFORMANCE BY PROGRAM ACTIVITY

Described below, for both program activities, are the performance results achieved by the Tribunal during 2005-2006, and how the Tribunal's plans and priorities discussed earlier supported the achievement of these performance results.

Activity No. 1—Adjudication of Trade Cases

The adjudication of trade cases is a quasi-judicial activity that includes unfair trade cases, appeals from decisions of the CBSA and the CRA, and bid challenges relating to federal government procurement. The Tribunal strives to make decisions that are fair and impartial and published in a timely way.

Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
9,553	9,241	8,927

Human Resources (FTE)

Planned	Actual	Difference
93	84	(9)

Highlights of key performance results achieved include the following.

- Decisions were published within statutory deadlines.** The Tribunal's decisions regarding dumping and/or subsidizing and procurement complaints are subject to statutory deadlines. In 2005-2006, 24 decisions were issued covering these two areas of the Tribunal's mandate, including 10 *SIMA* decisions and 14 procurement decisions. All determinations were issued within statutory deadlines. However, the statement of reasons providing the detailed judgment, and the translation of the Tribunal's determination and statement of reasons, were not always issued on time. Further details are provided below. The Tribunal has implemented strong case management controls to ensure that it is able to meet these deadlines and does extensive tracking of the status of cases to ensure close adherence to prescribed deadlines. Detailed reports also exist on the status of cases.
- There were some delays regarding internal deadlines.** There is no statutory deadline imposed for the decisions on appeals of CBSA and CRA decisions. However, the Tribunal has adopted an informal, voluntary standard of issuing such decisions within 120 days of the hearing of an appeal. Management monitors these files closely to ensure that, to the greatest extent possible, the Tribunal

adheres to this standard. Given the added workload in the case work under statutory deadlines, delays have increased for these cases. A review of the appeals heard in 2005-2006 shows that the Tribunal met its target of issuing decisions within 120 days of the hearing in somewhat less than half of the cases (40 percent). However, a new improved multi-disciplinary approach to appeals work resulted in a more effective disposition process for appeals. It is expected that, with this new process, the Tribunal will be able to meet its internal standard in most instances in 2006-2007.

- **A small number of Tribunal decisions were challenged, and they were, for the most part, upheld by national and international appeal bodies.** An indicator of the soundness of Tribunal decisions is the number of decisions that are upheld. Tribunal decisions on dumping and subsidizing matters may be reviewed by the Federal Court of Appeal or a binational panel under *NAFTA* in the case of a decision affecting U.S. and/or Mexican goods. WTO member states whose goods are affected by a Tribunal decision may also initiate dispute settlement proceedings under the *WTO Understanding on Rules and Procedures Governing the Settlement of Disputes*, if they believe that the Tribunal's procedures violated the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*. Tribunal decisions on appeals may be appealed to the Federal Court of Appeal or, in the case of the *Excise Tax Act*, the Federal Court. The Tribunal monitors whether its decisions have been the subject of applications for judicial review or appeals before these bodies. It determines, based on the issues raised in these applications, whether it will seek intervenor status before the Federal Court of Appeal. It is automatically a party in any binational panel review under *NAFTA*. The results of appeals are highlighted below.

In 2005-2006, of the 71 decisions rendered by the Tribunal, 10 were appealed to the Federal Court of Appeal. Of those appealed, two were discontinued, and one was remanded in part to the Tribunal. Seven appeals were still outstanding at year end.

**Disposition in 2005-2006 of Tribunal Decisions Appealed to the Federal Court or the Federal Court of Appeal
In the Fiscal Year Beginning April 1, 2005**

Case Type	Tribunal Decisions Issued in 2005-2006	Action of Parties		Court Action		
		Decisions Challenged in 2005-2006	Challenges Discontinued in 2005-2006	Challenges Dismissed in 2005-2006	Decisions Remanded or Appeals Allowed in 2005-2006	Decisions Pending at March 31, 2006
SIMA	10	0	0	0	0	0
Procurement	14	6	1	0	1 ¹ (in part)	4
Customs and Excise	47	4	1	0	0	3
Total	71	10	2	0	1	7

1. In the same case, another application was dismissed.

As for appeals to the Federal Court of decisions from previous years, of the 25 that were still outstanding at the beginning of 2005-2006, 4 were discontinued, 10 were dismissed, 1 was remanded in part and 2 were allowed. Eight were still outstanding at year end.

**Disposition in 2005-2006 of Tribunal Decisions Appealed to the Federal Court or the Federal Court of Appeal
In Fiscal Years Prior to April 1, 2005**

Case Type	Action of Parties		Court Action		
	Inventory of Outstanding Challenges at March 31, 2005	Challenges Discontinued in 2005-2006	Challenges Dismissed in 2005-2006	Decisions Remanded or Appeals Allowed in 2005-2006	Decisions Pending at March 31, 2006
SIMA	2	0	0	1 ¹ (in part)	1
Procurement	4	1	3	0	0
Customs and Excise	19	3	7 ²	2	7
Total	25	4	10	3	8

1. In the same case, three other applications were dismissed, and one was discontinued.
2. In the same case, one other application was dismissed, and another one was discontinued.

- **Feedback on whether Canada's trade remedies system is transparent and accessible and meets international obligations.** As noted earlier, the WTO publishes comments every three years, through its Trade Policy Review mechanism, on whether Canada and the Tribunal have fostered a fair and open trading system that is transparent and accessible and meets international obligations. The latest Trade Policy Review for Canada by the WTO in 2003 characterized Canada's trading regime as amongst the "world's most transparent and liberal".

Activity No. 2—General Economic Inquiries and References

General economic inquiries and references are advisory activities of the Tribunal. These include safeguard inquiries, general economic inquiries referred by the Government and tariff references referred by the Minister of Finance. The Tribunal strives to make recommendations that are fair and impartial and published in a timely way.

Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
106	1,708	1,654

Human Resources (FTE)

Planned	Actual	Difference
1	1	0

Key performance results achieved are similar to those outlined above and include the following.

- **Tribunal reports relating to general economic inquiries and references were published within Government-mandated deadlines.** Tribunal decisions regarding tariff references and economic and safeguard inquiries are subject to government-mandated deadlines. In 2005-2006, one tariff reference was completed, and the report was issued within the Government-mandated deadline. The Tribunal's recommendations were accepted by the Government and have been implemented.
- **No applications for judicial review were made for Tribunal determinations from general economic inquiries and references.** An indicator of the soundness of Tribunal determinations is the number of determinations that were reviewed by the courts and upheld, i.e. whether applications are dismissed by the reviewing court or discontinued by the applicant. No such applications for judicial review were made.

SECTION III—SUPPLEMENTARY INFORMATION

Organizational Information

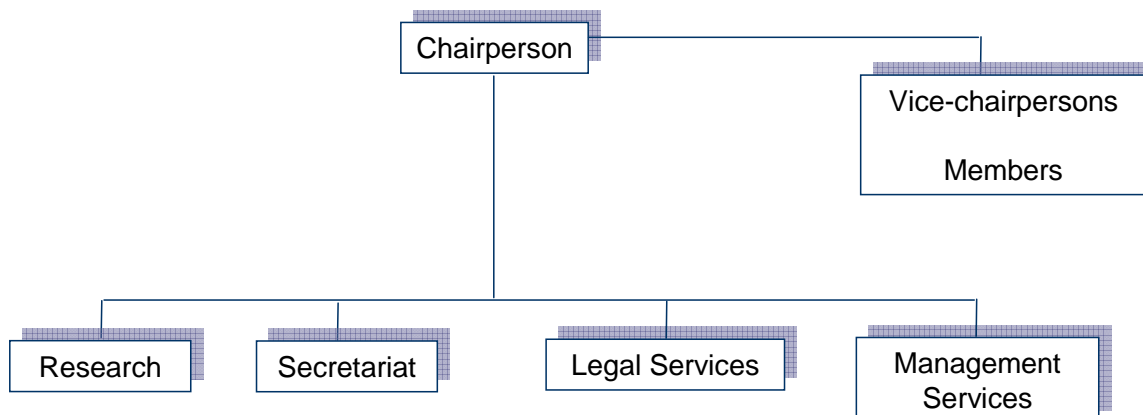
The Tribunal is an independent, investigative and quasi-judicial decision-making body that reports to Parliament through the Minister of Finance.

Under the *CITT Act*, the Tribunal is composed of up to 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. The Chairperson is the Chief Executive Officer responsible for the assignment of cases to the members and for the management of the Tribunal's workload and resources.

The members of the Tribunal are supported by a permanent staff of 87 people. Its principal officers are:

- the **Secretary**, responsible for relations with the public and parties, the court registry functions of the Tribunal, editing and translation of Tribunal decisions and reports, and relations with other government departments and other governments;
- the **Director General, Research**, responsible for the investigative portion of inquiries, the economic and financial analysis of firms and industries, the investigation of complaints by potential suppliers concerning any aspect of the procurement process and other fact finding required for Tribunal inquiries;
- the **General Counsel**, responsible for the provision of legal services to the members and staff of the Tribunal; and
- the **Director, Management Services**, responsible for corporate services such as human resource management, financial management, information technology, material management, accommodation and administrative services, security and for relationships with the central agencies on all matters relating to administrative policy and procedure.

Organization Structure



Financial Tables

Table 1: Comparison of Planned to Actual Spending (including FTEs)
(thousands of dollars)

	2003-2004 Actual	2004-2005 Actual	2005-2006			
			Main Estimates	Planned Spending	Total Authorities	Actual
Adjudication of Trade Cases	9,054	9,185	9,449	9,553	9,241	8,927
General Economic Inquiries and References	270	883	103	106	1,708	1,654
Total	9,324	10,068	9,552	9,659	10,949	10,581
Total	9,324	10,068	9,552	9,659	10,949	10,581
Less: Non-responsible Revenue	-	-	-	-	-	-
Plus: Cost of Services Received Without Charge	2,293	2,372	2,407	2,407	2,500	2,407
Net Cost of Department	11,617	12,440	11,959	12,066	13,449	12,988
FTEs	87	84	94	94	94	85

Table 2: Use of Resources by Program Activities
(thousands of dollars)

2005–2006								
Program Activity	Budgetary						Plus: Non-budgetary	Total
	Operating	Capital	Grants and Contributions	Total: Gross Budgetary Expenditures	Less: Respendable Revenue	Total: Net Budgetary Expenditures	Loans, Investments and Advances	
Adjudication of Trade Cases								
Main Estimates	9,449			9,449		9,449		9,449
<i>Planned Spending</i>	9,553			9,553		9,553		9,553
Total Authorities	9,241			9,241		9,241		9,241
<i>Actual Spending</i>	8,927			8,927		8,927		8,927
General Economic Inquiries and References								
Main Estimates	103			103		103		103
<i>Planned Spending</i>	106			106		106		106
Total Authorities	1,708			1,708		1,708		1,708
<i>Actual Spending</i>	1,654			1,654		1,654		1,654

Table 3: Voted and Statutory Items
(thousands of dollars)

2005–2006					
Vote or Statutory Item	Truncated Vote or Statutory Wording	Main Estimates	Planned Spending	Total Authorities	Actual
25	Program Expenditures	8,170	8,170	9,600	9,232
(S)	Contributions to Employee Benefit Plans	1,382	1,382	1,349	1,349
(S)	Spending of Proceeds from the Disposal of Surplus Crown Assets				
	Total	9,552	9,552	10,949	10,581

**Table 4: Net Cost of Department
(thousands of dollars)**

	2005-2006
Total Actual Spending	10,581
<i>Plus: Services Received Without Charge</i>	
Accommodation Provided by the Department of Public Works and Government Services	1,855
Contributions Covering Employers' Share of Employees' Insurance Premiums and Expenditures Paid by TBS (excluding revolving funds)	552
2005-2006 Net Cost of Department	12,988

**Table 5: Resource Requirements by Branch
(thousands of dollars)**

2005-2006			
Organization	Adjudication of Trade Cases	General Economic Inquiries and References	Total
Chairman's Office			
Main Estimates	1,436	7	1,443
Planned Spending	1,436	7	1,443
<i>Total Authorities</i>	<i>1,621</i>	<i>99</i>	<i>1,720</i>
Actual Spending	1,562	100	1,662
Secretariat			
Main Estimates	1,794	3	1,797
Planned Spending	1,794	3	1,797
<i>Total Authorities</i>	<i>1,719</i>	<i>175</i>	<i>1,894</i>
Actual Spending	1,660	173	1,833
Research			
Main Estimates	3,343	75	3,418
Planned Spending	3,343	75	3,418
<i>Total Authorities</i>	<i>2,661</i>	<i>1,139</i>	<i>3,800</i>
Actual Spending	2,567	1,103	3,670
Legal Services			
Main Estimates	890	4	894
Planned Spending	890	4	894
<i>Total Authorities</i>	<i>832</i>	<i>44</i>	<i>876</i>
Actual Spending	808	39	847
Management Services			
Main Estimates	2,090	17	2,107
Planned Spending	2,090	17	2,107
<i>Total Authorities</i>	<i>2,409</i>	<i>252</i>	<i>2,661</i>
Actual Spending	2,331	238	2,569

Table 6: Financial Statements—www.citt-tcce.gc.ca/publicat/index_e.asp

Contact for Further Information and Web Site

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K1A 0G7
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Tribunal's Web Site: www.citt-tcce.gc.ca

Legislation Governing the Work of the Canadian International Trade Tribunal

Canadian International Trade Tribunal Act	R.S.C. 1985 (4th Supp.), c. 47
Customs Act	R.S.C. 1985 (2d Supp.), c. 1
Excise Tax Act	R.S.C. 1985, c. E-15
Special Import Measures Act	R.S.C. 1985, c. S-15
Energy Administration Act	R.S.C. 1985, c. E-6
Canadian International Trade Tribunal Regulations	S.O.R./89-35
Canadian International Trade Tribunal Procurement Inquiry Regulations	S.O.R./93-602
Canadian International Trade Tribunal Rules	S.O.R./91-499

List of Statutory and Tribunal Reports

Annual Report

- 1989-90 to 2005-2006
- Textile Reference—Annual Status Report 1994-95 to 2000-2001 (incorporated into the Tribunal's Annual Report as of 2002-2003.)

Guides

- Procurement Review Process—A Descriptive Guide
- Safeguard Inquiry-Market Disruption-Imports from China-Guide for Complainant
- Safeguard Inquiry-Trade Diversion-Imports from China-Guide for Complainant
- Textile Reference Guide

Pamphlets

- Introductory Guide on the Canadian International Trade Tribunal
- Information on Appeals from Customs, Excise and *SIMA* Decisions
- Information on Dumping and Subsidizing Inquiries and Reviews
- Information on Economic, Trade and Tariff Inquiries
- Information on Import Safeguard Inquiries and Measures
- Information on Procurement Review
- Information on Textile Tariff Investigations