

Canadian International Trade Tribunal

**2004-2005
Estimates**

Part III - Report on Plans and Priorities

Canadian International Trade Tribunal

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Approved

Minister of Finance

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Section I—Chairperson’s Message

I am pleased to present the Report on Plans and Priorities (RPP) of the Canadian International Trade Tribunal (the Tribunal) for fiscal year 2004-2005.

One of the Tribunal’s main objectives is to ensure that the Canadian business sector and its members remain competitive in the global trade environment through its key role within Canada’s trade remedies system. In its quasi-judicial role, the Tribunal adjudicates cases relating to unfair trade, i.e. dumping and subsidizing, complaints regarding federal government procurement, and appeals from decisions of the Canada Revenue Agency (CRA) and the Canada Border Services Agency (CBSA) under various statutes.

Fiscal year 2004-2005 will be a challenging year for the Tribunal, as it will face its heaviest workload in the area of dumping and subsidizing injury inquiries since its establishment in December 1988. In addition, the number of complaints filed with the Tribunal dealing with federal government procurement has shown a steady increase from year to year. The largest number of procurement complaints received by the Tribunal in a fiscal year was observed in 2003-2004.

As a quasi-judicial organization, the Tribunal’s workload is externally generated. One of the Tribunal’s main challenges continues to be the need to harmonize the allocation of its limited resources to its various jurisdictions to ensure that statutory deadlines are met. This challenge will be made even more difficult with the forthcoming retirements of key senior personnel.

Previous reports provided information on initiatives taken by the Tribunal on a number of government initiatives. This year, I am pleased to report that the Tribunal will implement its action plan on the improvement of management practices, an initiative relating to modern comptrollership. In addition, the Tribunal will undertake its first internal audit as a result of the development of its internal audit policy and risk-based internal audit plan in 2003-2004. Finally, the Tribunal will pursue opportunities that could enhance its contribution to the Government On-Line initiative.

The Tribunal will be facing major challenges in fiscal year 2004-2005 due to an increase in the number of cases to be adjudicated and operational challenges caused by the retirements of key senior personnel. The Tribunal will need to devise means by which it will be able to meet its statutory deadlines without compromising the quality of its findings, determinations and recommendations.

Pierre Gosselin

Management Representation Statement

I submit, for tabling in Parliament, the 2004-2005 RPP for the Tribunal.

This document has been prepared based on the reporting principles and disclosure requirements contained in the *Guide to the Preparation of the 2004-2005 Report on Plans and Priorities*.

- It accurately portrays the organization's plans and priorities.
- The planned spending information in this document is consistent with the directions provided in the Minister of Finance's budget and by Treasury Board Secretariat (TBS).
- It is comprehensive and accurate.
- It is based on sound underlying departmental information and management systems.

The reporting structure on which this document is based has been approved by Treasury Board ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

Name: _____
Susanne Grimes
Acting Secretary

Date: _____
April 16, 2004

Section II—Raison d’être

The objective of the Tribunal’s business line is to provide a fair and efficient trade remedies system to the Canadian public, the private business sector and commercial interests, and to offer the government, through the Tribunal’s fact-finding inquiries and standing reference, the best advice available so that it can formulate strategies aimed at making the Canadian business sector and its members more competitive in the global trade environment.

Canada has obligations to honour under international trade agreements to which it is a signatory. Some of those obligations under the World Trade Organization (WTO) agreements (anti-dumping, subsidies, safeguards and government procurement) and the *North American Free Trade Agreement (NAFTA)* (procurement, advance rulings, markings and rules of origin) have been assigned to the Tribunal by statute or regulation. Similarly, legislation has conferred obligations on the Tribunal in relation to the *Canada-Israel Free Trade Agreement*, the *Canada-Chile Free Trade Agreement* and the *Canada-Korea Agreement on the Procurement of Telecommunications Equipment*.

At the domestic level, legislation has conferred on the Tribunal the responsibility to inquire into dumping and subsidizing complaints as they relate to injury and to hear appeals from decisions of the CRA and the CBSA, formerly the Canada Customs and Revenue Agency, under various statutes. The Tribunal has also been designated the bid challenge authority under the *Agreement on Internal Trade*.

The *Canadian International Trade Tribunal Act (CITT Act)* also assigns to the Tribunal an advisory role in assisting government, through its fact-finding inquiries, in the formulation of strategies aimed at making Canadian producers more competitive in the global trade environment. Through its standing reference on tariff relief on imported textile inputs for production, the Tribunal assists the government in determining the levels of tariffs that will ensure that economic gains for Canada are maximized in an industry that faces changing market demands.

Section III—Planning Overview

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.

Through its various jurisdictions, the Tribunal's strategic outcome is to be a key player in Canada's trade remedies system by supporting a fair and open trading system.

This strategic outcome must be achieved under difficult conditions. The Tribunal does not have control over its workload, as it is externally generated. Moreover, the economic climate has a direct impact on the Tribunal's work. Downturns in the domestic and global economies usually lead to a deterioration of markets and to increased competition for the remaining businesses. This can lead to a larger number of inquiries in response to dumping and subsidizing complaints. Recent amendments to the *CITT Act* and the Tribunal's regulations regarding safeguard inquiries to accommodate the recent accession of the People's Republic of China to the WTO will also have an impact on the Tribunal's workload. Risk management for the Tribunal involves establishing the right balance in 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 way, thereby allowing the Canadian business sector and its members to remain competitive in a global trade environment. It also involves having on strength the appropriate mix of competencies to deal effectively with the demands of an evolving mandate.

The Tribunal has established the following strategic priorities to guide its operations:

- To maintain the quality of its findings, determinations and recommendations
- To hear cases and make decisions expeditiously on matters that fall within its jurisdiction pursuant to acts of Parliament and regulations
- To maintain its independence and accessibility as a quasi-judicial organization

Recognizing that the Tribunal's entire workload is externally generated and that its operations are of a quasi-judicial nature, the Tribunal is not in a position to identify planned results and related activities and resources, as is the case for a regular department.

The Tribunal has, nevertheless, established the following key result commitments against which its performance can be assessed:

- Upholding of the Tribunal's decisions by national and international appeal bodies
- Implementation of the Tribunal's recommendations by the government
- Publication of the Tribunal's decisions in a timely way
- Tribunal's decisions viewed as fair and impartial by domestic and international stakeholders

In this context, the Tribunal monitors whether its decisions have been the subject of applications for judicial review before the Federal Court of Canada or reviews by a binational panel under *NAFTA*. It will determine, based on the issues raised in these applications, whether it will seek intervener status before the Federal Court of Canada or party status before a binational panel.

As for its determinations in procurement inquiries, departments and agencies must, as stipulated in the legislation, inform the Tribunal of the extent to which they will implement the Tribunal's recommendations when a complaint is found to be valid. In textile inquiries, the Department of Finance notifies the Tribunal whether the Minister of Finance will implement its recommendations for textile tariff relief. These mechanisms ensure that the Tribunal is fully aware of the status of its decisions, determinations and recommendations.

As to the question of the timeliness of its decisions and determinations, the Tribunal has never missed a statutory deadline. For its activities that are not subject to statutory deadlines, the Tribunal has established its own standard as to when decisions are to be issued. Tribunal management monitors closely these files to ensure that, to the greatest extent possible, the Tribunal adheres to this standard.

In line with these strategic priorities, the Tribunal has a communication strategy based on the timely publication of guides, guidelines and practice notices, and the strategic use of its Web site to ensure that stakeholders have a clear understanding of its jurisdiction. It seeks, through consultations with stakeholders, their views on new procedures being considered by the Tribunal prior to their distribution as guidelines or practice notices. There is also a Tribunal/Canadian Bar Association Bench and Bar Committee that serves as a forum to discuss issues of common interest.

Modern Comptrollership

The Tribunal completed, in fiscal year 2003-2004, its capacity assessment of its management practices. Based on this assessment, it has also prepared its action plan for improved management practices. The Tribunal will implement its plan in fiscal year 2004-2005, recognizing that it will be carried out over a number of years. As part of this initiative, the Tribunal has undertaken a succession planning exercise to deal with a forthcoming turnover of personnel due to retirements.

Internal Audit Program

In accordance with TBS's policy on internal audit, the Tribunal finalized, in fiscal year 2003-2004, its policy on internal audit and its risk-based internal audit plan. It will carry out, in fiscal year 2004-2005, the internal audit of its financial activities.

Government On-Line

For a number of years, the Tribunal has reported on various initiatives that it has carried out under the Government On-Line initiative. It will continue to investigate possible initiatives relating to the strategic use of its Web site as an efficient and effective means of communication with various groups of stakeholders. Over the last few fiscal years, the Tribunal has implemented an application that allows for the electronic compilation of the administrative record in dumping and subsidizing injury inquiries. In fiscal year 2004-2005, the Tribunal will extend the use of the application to the hearing portion of its proceedings. This initiative should allow for better management of the hearing time available to the Tribunal. The Tribunal will also extend the use of the application to its jurisdiction dealing with complaints concerning federal government procurement.

Section IV—Organization

Strategic Outcomes and Business Lines

Because of its mandate and structure, the Tribunal has one business line—to act as an administrative court for dumping and subsidizing inquiries, appeals from CRA and CBSA decisions on customs and excise matters, and procurement complaints, and as an advisor to the government or the Minister of Finance on a broad range of trade, economic or tariff-related matters.

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. Governments that are members of the WTO may appeal the Tribunal's decisions to a dispute settlement panel under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

The objective of the Tribunal's business line is to ensure that Canada can rely on a fair and efficient trade remedies system and that the government, through the Tribunal's fact-finding inquiries and standing reference, can formulate strategies aimed at making Canadian producers more competitive in the global trade environment.

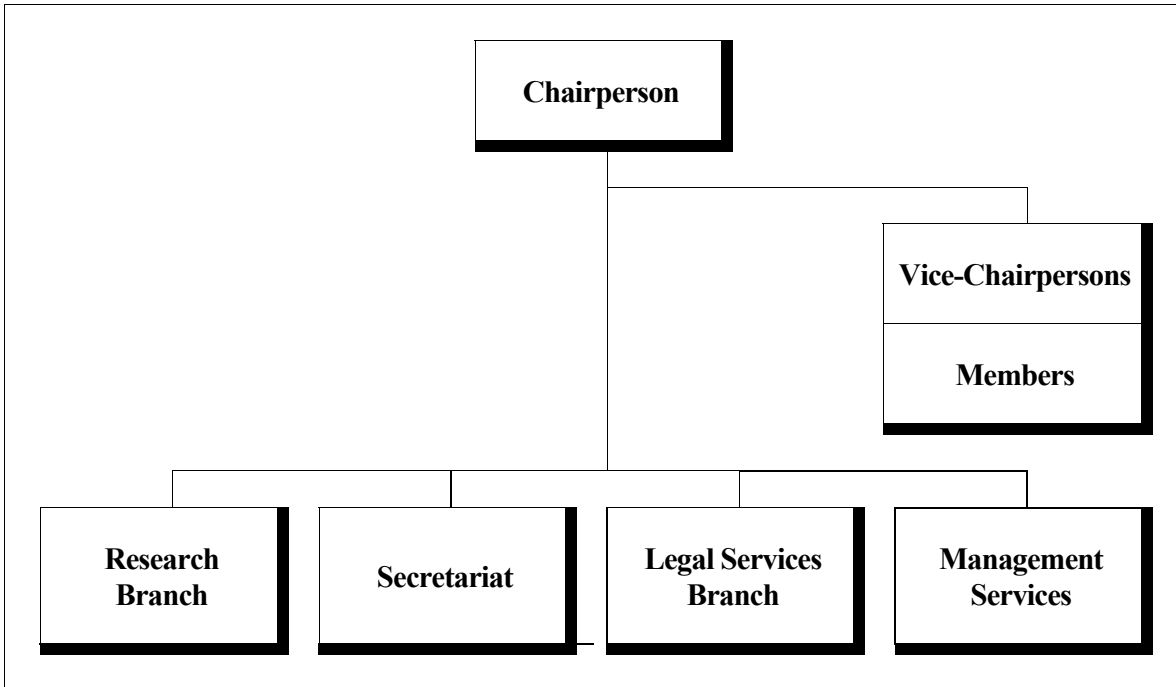
Accountability

The Tribunal 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 Tribunal may be 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. 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 of the Tribunal are supported 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 Director General of the Research Branch, responsible for the investigative portion of inquiries, the economic and financial analysis of firms and industries and other fact finding required for Tribunal inquiries; and the General Counsel, responsible for the provision of legal services.

Organization Structure



Departmental Planned Spending

(\$ thousand)	Forecast Spending 2003-2004	Planned Spending 2004-2005	Planned Spending 2005-2006	Planned Spending 2006-2007
Budgetary Main Estimates (gross)	9,534	9,815	9,806	9,806
Less: Respendable Revenue	-	-	-	-
Total Main Estimates	9,534	9,815	9,806	9,806
Adjustments				
Supplementary Estimates	543	-	-	-
Net Planned Spending	10,077	9,815	9,806	9,806
Less: Non-respendable Revenue	-	-	-	-
Plus: Cost of Services Received Without Charge	2,348	2,389	2,406	2,406
Net Cost of Program	12,425	12,204	12,212	12,212
Full-time Equivalents	94	94	94	94

Spending Trends

Over the years, the Tribunal's spending trends have remained constant. Its number of full-time equivalents and its percentage of funds allocated to salaries have remained essentially the same. The same can be said for its operating expenditures. Approximately 85 percent of the Tribunal's annual operating expenditures have been allocated to non-discretionary expenditures, i.e. telecommunications, translation, court reporting, printing, publishing and mail and courier services. The balance of the funds are mostly expended on training and development, and information technology equipment and initiatives. Because its workload is externally generated, the Tribunal has, as a practice, to keep in reserve a small portion of its operating budget to meet unexpected demands, such as references from the government or the Minister of Finance. The Tribunal is of the view that this approach is responsible management that enables it to deal expeditiously with matters that are referred to it. However, this mechanism has been significantly diminished as a result of the Tribunal's contribution to the \$1 billion reallocation initiative for fiscal year 2004-2005 and subsequent years.

Section V—Annexes**Annex I—Net Cost of Program for the Estimates Year**

(\$ thousand)	Total
Net Planned Spending (total main estimates plus adjustments as per the planned spending table)	9,815
<i>Plus: Services Received Without Charge</i>	
Accommodation Provided by the Department of Public Works and Government Services	1,838
Contributions Covering Employer's Share of Employees' Insurance Premiums and Expenditures Paid by TBS (excluding revolving funds)	551
2004-2005 Net Cost of Program	12,204

Annex II—Other Information

- **Contact for Further Information and Web Site**

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 Ottawa, Ontario
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- **Legislation Governing the Tribunal's Work**

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
Softwood Lumber Products Export Charge Act	R.S.C. 1985 (3d Supp.), c. 12
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

- **Tribunal Publications**

Annual Reports

- 1989-90 to 2002-2003

Bulletins

- 1995-96 to 2002-2003

Guides

- Procurement Review Process - A Descriptive Guide
- Textile Reference Guide
- Guide to Making Requests for Product Exclusions
- Safeguard Inquiry—Market Disruption, Imports from China, Guide for Complainant
- Safeguard Inquiry—Trade Diversion, Imports from China, Guide for Complainant

Pamphlets

- Information on Appeals from Customs, Excise and SIMA Decisions
- Information on Dumping and Subsidizing Inquiries and Reviews
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- Information on Procurement Review
- Information on Textile Tariff Investigations

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