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# **ANNUAL REPORT**

**FOR THE FISCAL YEAR ENDING  
MARCH 31, 2004**

**Canadian  
International  
Trade Tribunal**

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April 26, 2004

The Honourable Ralph E. Goodale, P.C., M.P.  
Minister of Finance  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Minister:

I have the honour of transmitting to you, for tabling in the House of Commons, pursuant to section 41 of the *Canadian International Trade Tribunal Act*, the Tribunal's annual report for the fiscal year ending March 31, 2004.

Yours sincerely,

Pierre Gosselin  
Chairman



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# TABLE OF CONTENTS

<b>Chapter I</b>	Highlights	1
<b>Chapter II</b>	Mandate, Organization and Activities	5
<b>Chapter III</b>	Dumping and Subsidizing Injury Inquiries and Reviews	11
<b>Chapter IV</b>	Appeals	29
<b>Chapter V</b>	Economic, Trade and Tariff References and Safeguard Inquiries	41
<b>Chapter VI</b>	Procurement Review	43
<b>Chapter VII</b>	Textile Reference	57
	Publications	75

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# LIST OF TABLES

<b>Chapter I</b>	Caseload	4
<b>Chapter II</b>	Organization	8
	Legislative Mandate	9
<b>Chapter III</b>	Preliminary Determinations of Injury Issued Under Subsection 37.1(1) of <i>SIMA</i>	21
	Findings Issued Under Section 43 of <i>SIMA</i> and Inquiries Under Section 42 of <i>SIMA</i> in Progress at Year-end	22
	Orders Issued Under Section 76.01 of <i>SIMA</i>	23
	Orders Issued Under Section 76.03 of <i>SIMA</i> and Expiry Reviews in Progress at Year-end	24
	<i>SIMA</i> Findings and Orders in Force as of March 31, 2004	25
	<i>SIMA</i> Cases Before the Federal Court of Canada	28
<b>Chapter IV</b>	Decisions on Appeals	31
	Decisions Rendered Under Section 60.2 of the <i>Customs Act</i>	36
	Appeal Decisions Rendered Under Section 67 of the <i>Customs Act</i> , Section 81.19 of the <i>Excise Tax Act</i> and Section 61 of <i>SIMA</i>	37
	Appeal Cases Before the Federal Court of Canada	39
<b>Chapter VI</b>	Summary of Activities	44
	Disposition of Procurement Complaints	49
	Procurement Cases Before the Federal Court of Canada	54
<b>Chapter VII</b>	New Requests	60
	Distribution of Imports by <i>Customs Tariff</i> Chapter	61
	Disposition of Requests for Tariff Relief	66
	Disposition of a Review of a Tariff Relief Order	67
	Disposition of Requests for Reconsideration	68
	Tariff Relief Recommendations in Place	69

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# CHAPTER I

## HIGHLIGHTS

### Members

On September 15, 2003, Mr. James Angus Ogilvy was re-appointed to the position of Member of the Canadian International Trade Tribunal (the Tribunal). Prior to his appointment in 1999, Mr. Ogilvy served in the trade section of the Alberta Department of International and Intergovernmental Relations, where his work involved negotiation, dispute management and policy development. He was a member of the Alberta delegation that negotiated the *Agreement on Internal Trade (AIT)* and, subsequently, served as Alberta's Internal Trade Representative. From 1986 to 1993, he served on the Alberta Liquor Control Board, where, as Director of Planning and Policy, he represented Alberta in GATT disputes involving wine, spirits and beer.

Mr. Ogilvy's prior work in the private sector includes the position of Senior Editor, Humanities, for the landmark original edition of *The Canadian Encyclopedia*. He taught at Bishop's University and the University of Toronto. He has a B.A. from the University of Calgary and an M.A. and a Ph.D. from the University of Toronto.

### Senior Staff

On February 19, 2004, Mr. John A. Greig was appointed Director General of the Research Branch in replacement of Mr. Ronald W. Erdmann. The Tribunal would like to take this opportunity to recognize Mr. Erdmann's important contribution over the last 15 years in developing and refining the Tribunal's investigative and fact-finding processes.

### Dumping and Subsidizing Inquiries and Reviews

In the fiscal year, the Tribunal issued six preliminary determinations of injury under subsection 37.1(1) of the *Special Import Measures Act (SIMA)*. The Tribunal also issued three findings following injury inquiries under section 42 and three orders following reviews under section 76.03. The Tribunal issued four orders following interim reviews pursuant to section 76.01. At the end of the year, there were three expiry reviews in progress.

During the fiscal year, the Tribunal issued a publication entitled *Guide to Making Requests for Product Exclusions* to facilitate the filing of requests for specific product exclusions in Tribunal inquiries and reviews and to ensure that the parties and the Tribunal have all the relevant information needed to address the request in advance of a public hearing or of a decision whether to commence an interim review.

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**Request for a Ruling on the Identity of the Importer**

The Commissioner of the Canada Customs and Revenue Agency (CCRA) (now the President of the Canada Border Services Agency [CBSA]) requested the Tribunal to rule, pursuant to subsection 89(1) of *SIMA*, on the identity of the importer in Canada of bicycles originating in or exported from Chinese Taipei and the People's Republic of China (China) that were subject to the order issued by the Tribunal on December 9, 2002, in Expiry Review No. RR-2002-001.

**Procurement Review**

This year marks the 15th year of Canada's independent bid challenge mechanism. On January 1, 1989, the Procurement Review Board, which reported to Parliament through the then Minister of Consumer and Corporate Affairs, began work as an independent quasi-judicial tribunal that resolved complaints relating to federal government procurements covered by the *Canada-United States Free Trade Agreement*. In January 1994, the Tribunal, which reports to Parliament through the Minister of Finance, took over the mandate with the implementation of the *North American Free Trade Agreement (NAFTA)*. Since January 1, 1994, 588 complaints about procurements undertaken by various federal entities have been received by the Tribunal.

The Tribunal received 83 complaints during the fiscal year. The Tribunal issued 31 written determinations of its findings and recommendations (excluding the 3 cases that were dismissed). Thirteen of these determinations related to cases that were in progress at the end of fiscal year 2002-2003. Three determinations were remanded back to the Tribunal.

During the fiscal year, the Tribunal revised its publication entitled *Procurement Review: A Descriptive Guide*. It also revised, further to consultations with stakeholders, the *Procurement Cost Guidelines* that have been re-issued under the title *Guideline for Fixing Costs in Procurement Complaint Proceedings*. The new guideline applies to procurement complaints filed after January 31, 2004.

**Trade and Tariff Reference**

**Textile Reference**

During the fiscal year, the Tribunal issued eight reports to the Minister of Finance concerning seven requests for tariff relief and one review of a tariff relief order. At the end of the year, one request for tariff relief was under investigation, and there were three requests for which investigations had not yet been initiated.

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**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 report and recommendations on August 19, 2002. The government announced in the summer of 2003 that it would not implement the Tribunal's recommendations.

**Appeals**

The Tribunal issued decisions on 89 appeals from decisions of the CCRA made under the *Customs Act*, the *Excise Tax Act* and *SIMA*.

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

The Tribunal's Web site provides an exhaustive repository of all Tribunal notices, decisions and publications, as well as other information relating to the Tribunal's current activities. The Tribunal offers a subscriber alert service that notifies subscribers of each new posting on the Tribunal's Web site. Subscribers can choose their areas of interest. The service also allows subscribers to register and deregister on-line. This service is available free of charge.

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

**Meeting Statutory  
Deadlines  
(Timeliness)**

All the Tribunal's inquiries were completed on time, and decisions were issued within the statutory deadlines. For appeals of customs and excise decisions that are not subject to statutory deadlines, the Tribunal usually issues, within 120 days of the hearing, a decision on the matter in dispute, including the reasons for its decision.

## Caseload

	Cases Brought Forward from Previous Fiscal Year	Cases Received in Fiscal Year	Total	Decisions/ Reports Issued	Cases Withdrawn/ Not Initiated/ Dismissed	Cases Outstanding (March 31, 2004)
<b>S/MA ACTIVITIES</b>						
Preliminary Injury Inquiries	-	6	6	6	-	-
Inquiries	1	3	4	3	-	1
Public Interest Inquiries	-	-	-	-	-	-
Requests for Interim Review	3	1	4	4	-	-
Expiries	-	1	1	1	-	-
Expiry Reviews	4	4	8	4	-	4
<b>APPEALS</b>						
<i>Customs Act</i>	109	44	153	78	27	48
<i>Excise Tax Act</i>	90	13	103	10	5	88
<i>S/MA</i>	<u>3</u>	<u>-</u>	<u>3</u>	<u>1</u>	<u>-</u>	<u>2</u>
Total	202	57	259	89	32	138
<b>ECONOMIC, TRADE, TARIFF AND SAFEGUARD INQUIRIES</b>						
Textile Reference						
Requests for Tariff Relief	9	4	13	8	1	4
Expiries	-	-	-	-	-	-
Reviews	-	1	1	1	-	-
Requests for Reconsideration	1	1	2	1	-	1
Economic, Trade and Tariff-related Matters	-	-	-	-	-	-
Safeguard Inquiries						
Global	-	-	-	-	-	-
Imports from China	-	-	-	-	-	-
<b>PROCUREMENT REVIEW ACTIVITIES</b>						
Complaints	15	86*	101	31**	59	11

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

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

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# CHAPTER II

## MANDATE, ORGANIZATION AND ACTIVITIES

### Introduction

The Tribunal is an administrative tribunal operating within Canada's trade remedies system. It is an independent quasi-judicial body that carries out its statutory responsibilities in an autonomous and impartial manner and reports to Parliament through the Minister of Finance.

The main legislation governing the work of the Tribunal is the *CITT Act*, *SIMA*, the *Customs Act*, the *Excise Tax Act*, the *CITT Regulations*, the *CITT Procurement Inquiry Regulations* and the *CITT Rules (Rules)*.

### Mandate

The Tribunal's primary mandate is to:

- conduct inquiries into whether dumped or subsidized imports have caused, or are threatening to cause, material injury to a domestic industry;
- hear appeals from decisions of the CBSA made under the *Customs Act* and *SIMA* or of the Minister of National Revenue (the Minister) under the *Excise Tax Act*;
- conduct inquiries into complaints by potential suppliers concerning federal government procurement that is covered by *NAFTA*, the *AIT*, the *Agreement on Government Procurement (AGP)* and the *Canada-Korea Agreement on the Procurement of Telecommunications Equipment*;
- conduct investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in production operations;
- conduct global safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, serious injury to domestic producers;
- conduct safeguard inquiries with respect to increased imports from China; 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.

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**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. Protecting commercially sensitive information against unauthorized disclosure has been, and continues to be, of paramount importance to the Tribunal. In this context, the Tribunal, further to consultations with stakeholders, has issued a revised guideline on this matter entitled *Designation, Protection and Use of 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 World Trade Organization (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 persons. 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, 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.

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

**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 duty cases before the WTO dispute settlement bodies. This is initiated by intergovernmental consultations.

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## Organization

### **CHAIRPERSON**

Pierre Gosselin

### **VICE-CHAIRPERSONS**

Patricia M. Close  
Richard Lafontaine

### **MEMBERS**

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

### **SECRETARIAT**

**Secretary**  
Michel P. Granger

### **RESEARCH BRANCH**

**Executive Director of Research**  
Ronald W. Erdmann\*

**Director General**  
John A. Greig

### **LEGAL SERVICES BRANCH**

**General Counsel**  
Reagan Walker

\* Special assignment.



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## Legislative Mandate

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Section	Authority
<b><i>CITT Act</i></b>	
18	Inquiries on Economic, Trade or Commercial Interests of Canada by Reference from the Governor in Council
19	Inquiries Into Tariff-related Matters by Reference from the Minister of Finance
19.01	Safeguard Inquiries Concerning Goods Imported from the United States and Mexico
19.02	Mid-term Reviews of Safeguard Measures and Report
20	Safeguard Inquiries Concerning Goods Imported Into Canada and Inquiries Into the Provision, by Persons Normally Resident Outside Canada, of Services in Canada
23	Safeguard Complaints by Domestic Producers
23(1.01) and (1.02)	Safeguard Complaints by Domestic Producers Concerning Goods Imported from the United States and Mexico
30.08 and 30.09	Safeguard Measures
30.11	Complaints by Potential Suppliers in Respect of Designated Contracts
30.21 to 30.26	Safeguard Inquires Concerning Market Disruption, Trade Diversion and Market Disruption Extension regarding Goods Originating in the People's Republic of China at the Request of either the Government or a Domestic Producer
<b><i>SIMA</i></b>	
33 and 37	Advice Regarding Reference to the Tribunal
34(2) and 35(3)	Preliminary Injury Inquiry
37.1	Preliminary Determination of Injury
42	Inquiries With Respect to Injury Caused by the Dumping and Subsidizing of Goods
43	Findings of the Tribunal Concerning Injury
44	Resumption of Inquiry (on Remand from the Federal Court of Canada or a Binational Panel)
45	Public Interest
46	Advice to the CBSA
61	Appeals of Re-determinations of the CBSA Made Pursuant to Section 59 Concerning Whether Imported Goods Are Goods of the Same Description as Goods to Which a Tribunal Finding Applies, Normal Values and Export Prices or Subsidies

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

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Section	Authority
76	Reviews of Findings of Injury Initiated by the Tribunal or at the Request of the CBSA or Other Interested Persons
76.01	Interim Reviews of Orders by the Tribunal
76.02	Reviews of Orders by the Tribunal on Referral Back and Re-hearing
76.03	Expiry Reviews
76.1	Reviews of Findings of Injury Initiated at the Request of the Minister of Finance
89	Rulings on Who Is the Importer
<b>Customs Act</b>	
60.2	Application for an extension of time to request a re-determination or a further re-determination
67	Appeals of Decisions of the CBSA Concerning Value for Duty and Origin and Classification of Imported Goods
67.1	Requests for Time Extension to File Notices of Appeal
68	Appeals to the Federal Court of Canada
70	References of the CBSA Relating to the Tariff Classification or Value for Duty of Goods
<b>Excise Tax Act</b>	
81.19, 81.21, 81.22, 81.23, 81.25 and 81.33	Appeals of Assessments and Determinations of the Minister
81.32	Requests for Extension of Time for Objection or Appeal
<b>Softwood Lumber Products Export Charge Act</b>	
18	Appeals of Assessments and Determinations of the Minister
<b>Energy Administration Act</b>	
13	Declarations Concerning the Amount of Oil Export Charge

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## CHAPTER III

### DUMPING AND SUBSIDIZING INJURY INQUIRIES AND REVIEWS

#### Process

Under *SIMA*, the CBSA may impose anti-dumping and countervailing duties if domestic producers are injured by imports of goods into Canada:

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

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

#### Preliminary Injury Inquiries

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

In the inquiry, the Tribunal determines whether the evidence discloses a “reasonable indication” that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury. The primary evidence is the information received from the CBSA and submissions from parties. The Tribunal seeks the views of parties on what are the like goods and which domestic producers comprise the domestic industry. In most cases, it does not issue questionnaires or hold a public hearing. The Tribunal completes its inquiry within 60 days.

If the Tribunal finds that there is a reasonable indication that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, it makes a determination to that effect, and the CBSA continues the dumping or subsidizing investigation. If there is no reasonable indication that the dumping or

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

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

The Tribunal completed six preliminary injury inquiries in the fiscal year. In each inquiry, the Tribunal determined that there was a reasonable indication of material injury caused by dumped imports. In *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (PI-2003-002) and *Stainless Steel Wire* (PI-2003-004), the Tribunal issued requests for information on matters to be addressed in the inquiry. In Inquiry No. PI-2003-002, the Tribunal also held a public hearing.

Table 1 summarizes the Tribunal's preliminary injury inquiry activities during the fiscal year.

**Advice Given  
Under Section 37  
of SIMA**

When the CBSA decides not to initiate an investigation because the evidence does not disclose a reasonable indication that the dumping or subsidizing of the goods has caused injury or retardation, or threatens to cause injury, the CBSA or the complainant may, under section 33 of *SIMA*, refer the matter to the Tribunal for an opinion as to whether or not the evidence before the CBSA discloses a reasonable indication that the dumping or subsidizing has caused material injury or retardation or is threatening to cause material injury to a domestic industry.

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

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

**Final Injury  
Inquiries**

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

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In conducting final injury inquiries, the Tribunal requests information from interested parties, receives representations and holds public hearings. The Tribunal's staff carries out extensive research for each inquiry. The Tribunal sends questionnaires to domestic producers, importers, purchasers and foreign producers. Based primarily on questionnaire responses, the Tribunal's staff prepares a report that focuses on the factors that the Tribunal considers in arriving 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 CBSA 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 CBSA. It has an additional 15 days to issue a statement of reasons explaining its finding. A Tribunal finding of material injury or retardation or threat of material injury to a domestic industry is the legal authority for the CBSA to impose anti-dumping or countervailing duties.

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

***Carbon Steel Pipe  
Nipples, Threaded  
Couplings and  
Adaptor Fittings***

*NQ-2002-004*

*Finding: Injury  
(July 16, 2003)*

The Tribunal completed three final injury inquiries in the fiscal year. They concerned *Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings* (NQ-2002-004), *Structural Tubing* (NQ-2003-001) and *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate* (NQ-2003-002). In 2002, the estimated values of the Canadian markets for these goods were, respectively, \$20 million, \$360 million and \$450 million.

This inquiry concerned dumped imports from China. Canvil, A Division of Mueller Canada Ltd. (Canvil), constituted the domestic industry. The Tribunal found that pipe fittings produced by the domestic industry were “like goods” to the subject goods.

Between 2000 and 2002, there was a surge in the volume of imports of the subject goods from China. They increased more than fivefold, rising by a further 17 percent in the first quarter of 2003. Their market share increased fourfold, while the share of the market held by Canvil declined substantially and imports from non-subject countries were displaced. The Tribunal did not accept the proposition that Canvil did not sell or pursue direct sales to all segments of the market. The Tribunal found that the subject goods competed with Canvil’s goods and displaced its sales at all trade levels.

The Tribunal found that, between 2000 and the first quarter of 2003, the average resale prices of the subject goods declined sharply, from 10 to 30 percent below Canvil’s prices. Because of the prices of the subject goods, Canvil was unable to implement a surcharge to offset rising costs. In sum, the Tribunal found that the price of the dumped imports from China both undercut and suppressed the price of like goods by the domestic industry and that, although other factors may have made some contribution, price was the main driving factor behind the surge in imports from China.

The evidence showed that Canvil’s production, sales volumes, sales revenues and market shares declined significantly between 2000 and 2002. Canvil operated at low and decreasing capacity utilization levels and began losing money on both a gross margin and net income basis after 2000. These losses increased continuously and significantly through the first quarter of 2003. Canvil’s better financial results on its export sales to the United States, where prices were better than in Canada, further reinforced the Tribunal’s view that Canvil’s problems were caused by the surge in heavily dumped imports from China since 2000.

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**Structural Tubing**  
*NQ-2003-001*  
*Finding: Injury*  
*(December 23, 2003)*

This inquiry concerned dumped structural tubing from the Republic of Korea (Korea), the Republic of South Africa (South Africa) and the Republic of Turkey (Turkey). Atlas Tube Inc., Copperweld Corporation, Novamerican Steel Inc., Welded Tube of Canada, Bull Moose Tube Limited, IPSCO Inc. (IPSCO), Prudential Steel Ltd. and Bolton Steel Tube Co. Ltd. together accounted for all domestic production and constituted the domestic industry. The Tribunal found that the structural tubing produced by the domestic industry constituted like goods to the subject goods. The Tribunal was satisfied that, taking into account the conditions of competition, it was appropriate to make an assessment of the cumulative effect of the dumped goods from all the subject countries.

In 2000, only the subject imports from Korea were present in the domestic market, with a market share of 1 percent. From the second half of 2002, imports from South Africa and Turkey entered the market, and the volume of imports from Korea increased, resulting in a dramatic increase in the volume of subject imports and in their market share at the expense of the domestic industry. The Tribunal attributed part of the decline in domestic shipments to a modest slowdown in market demand and to advance purchasing by a large buyer in anticipation of rising prices for structural tubing in the second half of 2002. However, neither of these factors could explain the nature and extent of the market disruption that occurred. The Tribunal concluded that the surge in the volume of imports of the subject goods caused a significant decline in domestic production and sales.

The Tribunal noted that rising prices of hot-rolled steel in the first half of 2002 led to sharply higher prices for structural tubing. A growing spread had also developed between the prices of hot-rolled steel sheet/hollow structural sections in North America and those in Europe and Asia, causing some purchasers to turn to foreign sources of supply. As a consequence, the subject imports began arriving in substantial volumes in the second half of 2002 when domestic prices were peaking. The industry had little choice but to lower its prices. However, the prices of the subject imports fell even further. While recognizing that some of the price decline could be attributed to the market slowdown and declining prices for hot-rolled steel sheet, the Tribunal found that prices would not have declined as steeply and rapidly had it not been for the dumping. The Tribunal found that the prices of the dumped imports had undercut and suppressed the prices of the like goods.

The Tribunal noted that the industry was profitable in the years 2000 and 2001 when the subject imports were present in only small volumes. Although the industry had its most profitable year in 2002, the effect of the dumped imports became greater in the last three months of 2002. This downward trend accelerated in the first half of 2003 and, by the second quarter, all the major

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**Hot-rolled Carbon  
Steel Plate and High-  
strength Low-alloy  
Steel Plate**

*NQ-2003-002*

*Finding: Injury  
(January 9, 2004)*

producers experienced losses in net income, as unit sales declined more rapidly than unit costs. The preponderance of evidence established that the subject imports were the main reason the industry performed so poorly. The Tribunal found that the injury suffered was material.

This inquiry concerned dumped imports from Bulgaria, the Czech Republic and Romania. The domestic industry consisted of Algoma Steel Inc., Stelco Inc. (Stelco) and IPSCO. The Tribunal found that there was one class of like goods and that imports of the subject goods from the subject countries could be cumulated.

During the Tribunal's period of inquiry, the volume of dumped imports increased quickly, becoming a significant competitive factor. They quadrupled their share of the market between 2000 and 2002, declining somewhat in the first half of 2003 to the same market share that they had in the first half of 2002. In a shrinking market, the domestic industry's sales dropped at a faster rate than the overall market declined, and the domestic industry's market share fell from 73 percent in 2000 to 59 percent during the first half of 2003. Domestic production of plate dropped by nearly 21 percent over the period of inquiry. While domestic producers' prices were consistently higher than the average prices of the subject imports, they were never able to sell plate at a price that would deliver a positive return at the gross profit level. The financial performance of the domestic industry was negative throughout the Tribunal's period of inquiry. In this atmosphere of deteriorating prices and falling sales, Stelco decided, in the first quarter of 2003, to suspend its production of plate rather than continue to produce and sell at a loss.

In the Tribunal's view, the domestic industry's steady loss in sales volume and market share, accompanied by deteriorating financial performance, constituted material injury. The Tribunal concluded that the substantial volumes and very low prices of dumped plate from Bulgaria, the Czech Republic and Romania had caused material injury to the domestic producers in the form of price erosion, price suppression and reduced profitability.

The Tribunal reviewed the effects of other factors, such as world pricing, domestic market conditions and producer-customer relationships. The Tribunal found that part of the decline in prices could be attributable to these other factors, but concluded that it was the dumping of the subject goods that had caused material injury to the domestic industry. With regard to the growing volume of imports from the United States, the Tribunal noted that they were sold at or above Canadian prices and were not disruptive to the market.

The Tribunal granted a product exclusion for plate in thicknesses greater than 4 inches.



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

There was one inquiry in progress at the end of the fiscal year: *Wood Venetian Blinds and Slats* (NQ-2003-003) respecting dumped imports from China and Mexico.

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 89 of *SIMA*, the CBSA may request the Tribunal to rule on the question as to which of two or more persons is the importer of goods on which anti-dumping or countervailing duties are payable. If the Tribunal identifies as the importer a person other than the one specified by the CBSA, it may reconsider its original finding of material injury under section 91.

There was one request for an importer ruling in the fiscal year. On July 25, 2003, the CCRA requested a ruling on the identity of an importer in Canada of bicycles that were subject to the Tribunal's order issued on December 9, 2002, in Review No. RR-2002-001. The Tribunal held a public hearing on October 27, 2003. On March 11, 2004, the Tribunal ruled that Kent International Inc. was the importer in Canada of the said goods.

**Interim Reviews**

The Tribunal may review its findings of injury or orders at any time, on its own initiative or at the request of the Minister of Finance, the CBSA or any other person or government (section 76.01 of *SIMA*). It commences an interim review where one is warranted and determines if the finding or order (or any aspect of it) should be rescinded or continued to its expiry date, with or without amendment.

An interim review may be warranted where there is a reasonable indication that new facts have arisen or that there has been a change in the circumstances that led to the finding or order. For example, since the finding or order, the domestic industry may have ceased production of like goods or foreign subsidies

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**Interim Reviews Completed in the Fiscal Year**

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 one request for an interim review during the fiscal year. It determined that a review was warranted. It also determined that reviews were warranted in the case of three requests for interim reviews that were under consideration at the end of the previous fiscal year.

The Tribunal completed four interim reviews in the fiscal year.

On November 28, 2003, the Tribunal completed interim reviews concerning *Hot-rolled Carbon Steel Plate* (RD-2002-006, RD-2002-007 and RD-2002-008) of: its order made on May 17, 1999, in Review No. RR-98-004, continuing its finding made on May 17, 1994, in Inquiry No. NQ-93-004; its orders made on January 10, 2003, in Review No. RR-2001-006, continuing its findings made on October 27, 1997, in Inquiry No. NQ-97-001; and its finding made on June 27, 2000, in Inquiry No. NQ-99-004. The applicant, Wirth Steel, A General Partnership, requested the interim reviews for the exclusion of thick steel plate. On May 7, 2003, the Tribunal determined that interim reviews were warranted. On November 28, 2003, the Tribunal decided not to amend the finding and orders to exclude the product for which an exclusion had been requested.

On November 19, 2003, the Tribunal received a request for an interim review of its order made on September 3, 2003, in Expiry Review Nos. RR-2002-003 and RR-2002-004 concerning *Stainless Steel Round Bar Products*. The applicant, Edro Speciality Steels Inc., requested the review for the exclusion of “RoyAlloy”, a specialty product. On December 23, 2003, the Tribunal determined that an interim review was warranted. On January 26, 2004, it amended the order to exclude the product for which an exclusion had been requested, as well as any equivalent product.

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

There were no 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

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expiry in the *Canada Gazette*. The notice invites persons and governments to submit their views on whether the order or finding should be reviewed and gives direction on the issues that should be addressed in the submissions. The Tribunal initiates a review of the order or finding, as requested, if it determines that such a review is warranted. It then issues a notice of review and notifies the CBSA of its 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 seven notices of expiry. It decided that expiry reviews were warranted in four cases and initiated reviews.

In Expiry No. LE-2003-002, *12-Gauge Shotshells*, the Tribunal decided that a review was not warranted of its order made on June 22, 1999, in Review No. RR-98-005, continuing its finding made on June 22, 1994, in Inquiry No. NQ-93-005. The order is scheduled to expire on June 21, 2004.

In Expiry No. LE-2003-004, *Black Granite Memorials*, the Tribunal received no request for a review of its order made on July 19, 1999, continuing its finding made on July 20, 1994, in Inquiry No. NQ-93-006. The Tribunal decided not to initiate a review, and the order is scheduled to expire on July 18, 2004.

In Expiry No. LE-2003-007, *Concrete Reinforcing Bar*, the Tribunal had not yet decided, at the end of the fiscal year, if a review was warranted of its finding made on January 12, 2000, in Inquiry No. NQ-99-002.

The purpose of an expiry review is to determine whether anti-dumping or countervailing duties remain necessary. There are two phases in an expiry review. The first phase is the investigation by the CBSA to determine whether there is a likelihood of resumed or continued dumping or subsidizing if the finding or order expires. If the CBSA determines that such likelihood exists with respect to any of the goods, the second phase is the Tribunal's inquiry into the likelihood of injury or retardation. If the CBSA determines that such likelihood does not exist for any of the goods, the Tribunal does not consider those goods in its subsequent determination of the likelihood of injury and issues an order rescinding the order or finding with respect to those goods.

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

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

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**Expiry Reviews Completed in the Fiscal Year**

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

On April 28, 2003 the Tribunal rescinded its finding in *Prepared Baby Foods* (RR-2002-002) respecting dumped imports from the United States.

On September 3, 2003, the Tribunal continued, with amendment, its finding in *Stainless Steel Round Bar* (RR-2002-003 and RR-2002-004) respecting dumped imports from the Federal Republic of Germany (Germany), France, India, Italy, Japan, Spain, Sweden, Chinese Taipei and the United Kingdom, and its finding made on June 18, 1999, in Inquiry No. NQ-98-003, respecting dumped imports from Korea.

On November 17, 2003, the Tribunal rescinded its order in *Preformed Fibreglass Pipe Insulation* (RR-2002-005) respecting dumped imports from the United States.

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

Four expiry reviews were in progress at the end of the fiscal year. They were reviews of the findings or orders in: *Carbon Steel Plate* (RR-2003-001) respecting dumped imports from Italy, Korea, Spain and Ukraine; *Flat Hot-rolled Carbon and Alloy Steel Sheet Products* (RR-2003-002) respecting dumped imports from France, Romania, the Russian Federation and the Slovak Republic (the CBSA determined on January 22, 2004, that there was no likelihood of continued or resumed dumping from France); *Corrosion-resistant Steel Sheet Products* (RR-2003-003) respecting dumped imports from Brazil, Germany, Japan, Korea and the United States; and *Cold-rolled Steel Sheet Products* (RR-2003-004) respecting dumped imports from Belgium, the Russian Federation, the Slovak Republic and Turkey.

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, 2004.

**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.

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## TABLE 1

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

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<b>Preliminary Injury Inquiry No.</b>	<b>Product</b>	<b>Country</b>	<b>Date of Determination</b>	<b>Determination</b>
PI-2003-001	Structural Tubing	Korea, South Africa and Turkey	July 21, 2003	Injury
PI-2003-002	Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate	Bulgaria, Czech Republic and Romania	August 12, 2003	Injury
PI-2003-003	Wood Venetian Blinds and Slats	Mexico and China	January 20, 2004	Injury
PI-2003-004	Stainless Steel Wire	Chinese Taipei, India, Korea, Switzerland and United States	January 20, 2004	Injury
PI-2003-005	Steel Fuel Tanks	China and Chinese Taipei	February 17, 2004	Injury
PI-2003-006	Frozen Self-rising Pizza	United States	March 2, 2004	Injury

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**TABLE 2**

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

<b>Inquiry No.</b>	<b>Product</b>	<b>Country</b>	<b>Date of Finding</b>	<b>Finding</b>
NQ-2002-004	Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings	China	July 16, 2003	Injury
NQ-2003-001	Structural Tubing	Korea, South Africa and Turkey	December 23, 2003	Injury
NQ-2003-002	Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate	Bulgaria, Czech Republic and Romania	January 9, 2004	Injury
NQ-2003-003	Wood Venetian Blinds and Slats	China and Mexico		

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## TABLE 3

### Orders Issued Under Section 76.01 of *SIMA*

Review or Request No.	Product	Country	Date of Order/Decision	Order/Decision
RD-2002-006	Hot-rolled Carbon Steel Plate	Italy, Korea, Spain and Ukraine	November 28, 2003	Order continued
RD-2002-007	Hot-rolled Carbon Steel Plate	China, South Africa and Russian Federation	November 28, 2003	Orders continued
RD-2002-008	Hot-rolled Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine	November 28, 2003	Finding continued
RD-2003-001	Stainless Steel Round Bar Products	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei, United Kingdom and Korea	January 26, 2004	Order amended

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

<b>Review No.</b>	<b>Product</b>	<b>Country</b>	<b>Date of Order</b>	<b>Order</b>
RR-2002-002	Prepared Baby Foods	United States	April 28, 2003	Finding rescinded
RR-2002-003	Stainless Steel Round Bar	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei and United Kingdom	September 3, 2003	Finding continued, with amendment
RR-2002-004	Stainless Steel Round Bar	Korea	September 3, 2003	Finding continued, with amendment
RR-2002-005	Preformed Fibreglass Pipe Insulation	United States	November 17, 2003	Order rescinded
LE-2003-002	12-gauge Shotshells	Czech Republic and Hungary	August 29, 2003	Review not warranted
RR-2003-001	Carbon Steel Plate	Italy, Korea, Spain and Ukraine		
RR-2003-002	Flat Hot-rolled Carbon and Alloy Steel Sheet Products	France, Romania, Russian Federation and Slovak Republic		
RR-2003-003	Corrosion-resistant Steel Sheet Products	Brazil, Germany, Japan, Korea and United States		
RR-2003-004	Cold-rolled Steel Sheet Products	Belgium, Russian Federation, Slovak Republic and Turkey		



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**TABLE 5****SIMA Findings and Orders in Force as of March 31, 2004**

<b>Review No. or Inquiry No.</b>	<b>Date of Decision</b>	<b>Product<sup>1</sup></b>	<b>Country</b>	<b>Related Decision No. and Date</b>
RR-98-004	May 17, 1999	Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate	Italy, Korea, Spain and Ukraine	NQ-93-004 (May 17, 1994)
RR-98-005	June 22, 1999	12-gauge Shotshells	Czech Republic and Hungary	NQ-93-005 (June 22, 1994)
NQ-98-004	July 2, 1999	Flat Hot-rolled Carbon and Alloy Steel Sheet Products	France, Romania, Russian Federation and Slovak Republic	RD-2002-003 (January 17, 2003)
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	Corrosion-resistant Steel Sheet Products	Brazil, Germany, Japan, Korea and United States	NQ-93-007 (July 29, 1994)
NQ-99-001	August 27, 1999	Cold-rolled Steel Sheet Products	Belgium, Russian Federation, Slovak Republic and Turkey	
NQ-99-002	January 12, 2000	Concrete Reinforcing Bar	Cuba, Korea and Turkey	
RR-99-002	March 20, 2000	Subsidized Canned Ham	Denmark and Netherlands	RR-94-002 (March 21, 1995) RR-89-003 (March 16, 1990) GIC-1-84 (August 7, 1984)
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)

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

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

Review No. or Inquiry No.	Date of Decision	Product	Country	Related Decision No. and Date
NQ-99-004	June 27, 2000	Carbon Steel Plate	Brazil, Finland, India, Indonesia, Thailand and Ukraine	
NQ-2000-001	August 1, 2000	Dishwashers and Dryers	United States (WCI and Whirlpool)	RD-2002-005 (March 19, 2003)
RR-99-005	September 13, 2000	Whole Potatoes	United States	RR-94-007 (September 14, 1995) RR-89-010 (September 14, 1990) CIT-16-85 (April 18, 1986) ADT-4-84 (June 4, 1984)
NQ-2000-002	October 27, 2000	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	Concrete Reinforcing Bar	Indonesia, Japan, Latvia, Republic of Moldova, Poland, Chinese Taipei and Ukraine	
RR-2000-002	July 24, 2001	Carbon Steel Welded Pipe	Argentina, India, Romania, Chinese Taipei, Thailand and Brazil	RR-95-002 (July 25, 1996) NQ-91-003 (January 23, 1992) NQ-90-005 (July 26, 1991)
NQ-2001-001	August 17, 2001	Flat Hot-rolled Steel Sheet and Strip	Brazil, Bulgaria, China, Chinese Taipei, India, Macedonia, South Africa, Ukraine and Yugoslavia	
NQ-2001-003	December 27, 2001	Leather Footwear with Metal Toe Caps	China	
RR-2001-001	March 20, 2002	Fresh Garlic	China	NQ-96-002 (March 21, 1997)

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

Review No. or Inquiry No.	Date of Decision	Product	Country	Related Decision No. and Date
RR-2001-005	October 18, 2002	Waterproof Rubber Footwear	China	RR-97-001 (October 20, 1997) RR-92-001 (October 21, 1992) R-7-87 (October 22, 1987) ADT-2-82 (April 23, 1982) ADT-4-79 (May 25, 1979)
RR-2001-006	January 10, 2003	Hot-rolled Carbon Steel Plate	Mexico, China, South Africa and Russian Federation	NQ-97-001 (October 27, 1997)
RR-2002-001	December 9, 2002	Bicycles and Frames	Chinese Taipei and China	RR-97-003 (December 10, 1997) NQ-92-002 (December 11, 1992)
NQ-2002-003	March 4, 2003	Xanthates	China	
NQ-2002-004	July 16, 2003	Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings	China	
NQ-2003-001	December 23, 2003	Structural Tubing	Korea, South Africa and Turkey	
NQ-2003-002	January 9, 2004	Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate	Bulgaria, Czech Republic and Romania	
RR-2002-003 and RR-2002-004	September 3, 2003	Stainless Steel Round Bar	Germany, France, India, Italy, Japan, Spain, Sweden, Chinese Taipei United Kingdom and Korea	RD-2003-001 (January 26, 2004) NQ-98-003 (June 18, 1999) NQ-98-001 (September 4, 1998)

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## TABLE 6

### *SIMA* Cases Before the Federal Court of Canada

Case No.	Product	Country of Origin	Forum	File No./Status
RR-2002-002	Baby Food	United States	FC	A—280—03
GC-2001-001	Steel Goods	Global Safeguard	FC	A—458—02 Appeal discontinued (November 7, 2003)

**Notes:** FC — Federal Court of Canada

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# CHAPTER IV

## APPEALS

### Introduction

The Tribunal hears appeals from decisions of the CBSA under the *Customs Act* and *SIMA* or of the Minister 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.

### Application for an Extension of Time

A person may make an application to the CBSA for an extension of the prescribed time period to request a re-determination or further re-determination of origin, tariff classification, value for duty or marking of any goods under section 60 of the *Customs Act*. If the CBSA refuses the application, or if 90 days have elapsed after the application was made and the CBSA has not notified the person of its decision, the person may apply to the Tribunal to have the application granted.

Table 1 of this chapter lists the decisions concerning such applications rendered in the fiscal year.

### 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 the CBSA (the respondent) and states why the appellant believes that the respondent's decision is incorrect. A copy of the brief must also be given to the respondent.

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## Hearings

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.

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

**Appeals  
Considered**

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.

During the fiscal year, the Tribunal heard 80 appeals, of which 77 related to the *Customs Act* and 3 to the *Excise Tax Act*. Decisions were issued in 89 cases, of which 74 were heard during the fiscal year.

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**Decisions on Appeals**

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<b>Act</b>	<b>Allowed</b>	<b>Allowed in Part</b>	<b>Dismissed</b>	<b>Total</b>
<i>Customs Act</i>	61	1	16	78
<i>Excise Tax Act</i>	1	-	9	10
<i>SIMA</i>	1	-	-	1

Table 2 of this chapter lists the appeal decisions rendered in the fiscal year.

**Summary of  
Selected  
Decisions**

Of the many cases heard by the Tribunal in carrying out its appeal functions, several decisions stand out, either because of the particular nature of the product in issue or because of the legal significance of the case. Brief summaries of a representative sample of such appeals follow, two of which were heard under the *Customs Act*, one under *SIMA* and one under the *Excise Tax Act*. These summaries have been prepared for general information purposes only and have no legal status.

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**Simms Sigal &  
Co. Ltd.  
v.  
Commissioner of the  
CCRA**

AP-2001-016

*Decision:  
Appeal allowed  
(May 27, 2003)*

This was an appeal under section 67 of the *Customs Act* from a re-determination of the CCRA dated June 21, 2001. The issue in this appeal was whether payments made by the importer of women's clothing, Simms Sigal & Co. Ltd. (Simms Sigal), pursuant to a distribution agreement with the U.S. vendor were part of the transaction value of the goods for the purposes of determining their value for duty.

Simms Sigal argued that the distribution fee paid to the producer in the United States should not be added to the selling price of the goods. The President of Simms Sigal testified that, in the event that the U.S. vendor was unable to provide a specific service at any time, Simms Sigal was not obliged to pay the distribution fee. He also testified that the distribution fee was treated as a marketing expense and not a cost of sales and, therefore, should be excluded from the transaction value of the goods.

The CCRA argued that Simms Sigal would not have been able to purchase the imported goods in the absence of the distribution agreement and, hence, the payment of the distribution fee was a condition of sale that was inseparable from the purchase agreement. In the alternative, the CCRA argued that the distribution fee constituted proceeds of a subsequent resale of the goods and had to therefore be added to the "price paid or payable" in accordance with subparagraph 48(5)(a)(v) of the *Customs Act*.

The Tribunal found that the distribution fee was not part of the price paid or payable for the goods. The evidence indicated that the price that Simms Sigal paid for the imported goods included all amounts in respect of the goods. The distribution fee was not a payment made in respect of the goods, as it related to rights and services of value to Simms Sigal that were separate from the purchase price of the goods.

Similarly, the Tribunal found that the distribution fee was not to be added to the transaction value of the goods according to subparagraph 48(5)(a)(v) of the *Customs Act*. The fact that the distribution fee was calculated as a percentage of net sales did not mean that the vendor had a right to receive any part of the proceeds of the resale of the goods as payment for those goods.

For these reasons, the appeal was allowed.



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**M & M Footwear Inc.**  
**v.**  
**Commissioner of the**  
**CCRA**

AP-2001-070

*Decision:*  
*Appeal allowed*  
*(May 8, 2003)*

This was an appeal under section 61 of *SIMA* from a series of re-determinations of the CCRA that women's waterproof boots imported by M & M Footwear Inc. (M & M) from China were of the same description as the goods to which the Tribunal's findings in Inquiry No. NQ-89-003 .

In Inquiry No. NQ-89-003, the Tribunal ordered the imposition of anti-dumping duties on women's boots from China, except for plastic footwear with uppers not fixed to the sole nor assembled by stitching or with tops assembled by stitching if the upper is moulded near the ankle and is free of stitching or fastenings below that level.

The issue in this appeal was whether footwear with outer soles and stitched uppers made of exterior nylon that covered a polyvinyl chloride layer and was attached by injection moulding were goods of the same description.

M & M contended that the requirement that the outer soles and uppers be made of rubber or plastic was met, as the uppers were made of nylon, which is a plastic. The CCRA argued that, as the nylon had been further manufactured into textile form, it excluded the goods in issue from the definition.

M & M also argued that the part of the definition that excluded footwear with tops assembled by stitching if the upper is moulded in the vicinity of the ankle and is free of stitching below that level applied to two-piece boots with a stitched upper attached to the sole by injection moulding. It submitted that the requirement not to have stitching must be linked to the intent of the exclusion not to cover waterproof plastic footwear. In the case of the goods in issue, M & M submitted that the stitching did not impair the waterproof quality.

The Tribunal determined that nylon is a plastic. The fact that it had been further transformed into a textile was, in the Tribunal's view, irrelevant.

Moreover, the Tribunal found that the fact that parts of the uppers of the goods in issue were assembled together by stitching did not preclude them from meeting the requirements of the definition. In the Tribunal's view, there was indication that the Tribunal, in Inquiry No. NQ-89-003, had intended to exclude the goods in issue from the scope of its definition. Furthermore, the Tribunal found that it was not relevant that the goods in issue were not free of stitching below the ankle level because that part of the definition concerned a different type of waterproof plastic footwear within the overall ambit of the definition.

Consequently, the Tribunal found that the goods met the definition set out in Inquiry No. NQ-89-003 and, consequently, were excluded from the findings.

For these reasons, the appeal was allowed.

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**Praxair Canada Inc.**  
v.  
**Minister of National  
Revenue**

AP-2002-104

*Decision:*  
*Appeal dismissed*  
*(September 23, 2003)*

This was an appeal under section 81.19 of the *Excise Tax Act* from a decision of the Minister dated March 7, 2002. In that decision, a claim by Praxair Canada Inc. (Praxair) for a refund of federal sales tax attributable to co-operative advertising allowances was denied, on the ground that the issue was not raised in Determination No. TOR-57201 within the limitation period and that, therefore, Praxair was statute-barred from filing the appeal. The parties requested a preliminary ruling by the Tribunal on this issue, which was considered in accordance with sections 6 and 23.1 of the *Rules*.

Although it did not file a notice of objection explicitly mentioning Determination No. TOR-60848, Praxair submitted that it was not statute-barred from filing the appeal, arguing that the notice of objection that it served on the Minister in relation to Determination No. TOR-57201 was sufficient to cover the co-operative advertising allowances that were the subject of the appeal.

According to the Tribunal, the *Excise Tax Act* sets out very precise steps to be followed by a taxpayer when claiming a refund. The right of appeal to the Tribunal is available to a party when, following a notice of determination, a notice of objection is served. In this instance, the evidence on record showed that Praxair did not serve a notice of objection to Determination No. TOR-60848. The Tribunal was of the view that Determination No. TOR-57201, which dealt with performance allowances, did not address the issue of deductibility of co-operative performance allowances, which was the issue that Praxair was seeking to have examined by the Tribunal.

The Tribunal was of the view that Praxair could not claim that the inclusion of the abbreviation “etc.” in its notice of objection to Determination No. TOR-57201 in any way constituted an objection to something that was decided by an entirely different determination, i.e. Determination No. TOR-60848. The Tribunal also noted that Praxair’s notice of objection mentioned only Determination No. TOR-57201 and made no reference whatsoever to Determination No. TOR-60848. Parliament had not given the Tribunal the power to remedy this deficiency.

Consequently, the appeal was dismissed.

**Bernard Chaus Inc.**

EP-2003-001

*Order:*  
*Application granted*  
*(December 4, 2003)*

This was the first time that the Tribunal handled an application made under section 60.2 of the *Customs Act* for an extension of time to make an application to the CCRA for a further re-determination of origin, tariff classification or value for duty.

The CCRA had made a re-determination of the value for duty on clothing imported by Bernard Chaus Inc. (Chaus), which resulted in a higher assessment.

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Chaus filed a letter with the CCRA with a view to appealing, but the formal request for a further re-determination was not made until two days after the 90-day time limit. The CCRA refused the application for being late and also refused a subsequent application under section 60.1 of the *Customs Act* for an extension of time to make a request for a further re-determination as it had not been made as soon as circumstances permitted. Chaus then applied for an extension of time to the Tribunal under section 60.2.

The Tribunal considered whether Claus met all four tests for the application to succeed.

Firstly, the Tribunal noted that the application had been made within one year of the time allowed to make a request under section 60.1, thus meeting the requirement of paragraph 60.2(4)(a).

Secondly, the Tribunal accepted Mr. Chaus's letter and authorization to the CCRA as evidence of his *bona fide* intention to make a request for re-determination within the 90-day period prescribed under subparagraph 60.2(4)(b)(i).

Thirdly, the Tribunal found that it would be just and equitable under subparagraph 60.2(4)(b)(ii) to grant the application because Claus demonstrated that it would be unfair for it to potentially pay a much higher assessment as a result of missing the deadline by only two days. According to the Tribunal, this was "a minor, technical breach of the *Act*" that called for relief, especially in light of the fact that the CCRA took a long time, i.e. three years, to make the initial re-determination.

Lastly, the Tribunal was satisfied that Chaus's application to the CCRA was made as soon as circumstances permitted within the meaning of subparagraph 60.2(4)(b)(iii). During the 92 days that elapsed between the CCRA's re-determination and Claus's application to the CCRA for an extension of time, Chaus ceased Canadian operations, sought professional advice, notified the CCRA of the grounds for its request for a further re-determination, carefully reconsidered the strategy proposed by its advisors and sought a second opinion. For the Tribunal, in the circumstances, Chaus demonstrated that it had prepared the application and presented it to the CCRA as early as it could reasonably be expected.

Therefore, the Tribunal granted the application.

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## TABLE 1

### Decisions Rendered Under Section 60.2 of the *Customs Act*

Application No.	Applicant	Date of Decision	Decision
EP-2003-001	Bernard Chaus Inc.	December 4, 2003	Application granted
EP-2003-002	Agripack	February 16, 2004	Application granted
EP-2003-005	Codd Import Export (7) Inc.	February 18, 2004	Application denied
EP-2003-006	Ingram Micro Inc.	March 31, 2004	Application granted
EP-2003-007	Gordon Grandison	March 31, 2004	Application granted

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**TABLE 2****Appeal Decisions Rendered Under Section 67 of the *Customs Act*, Section 81.19 of the *Excise Tax Act* and Section 61 of *SIMA***

<b>Appeal No.</b>	<b>Appellant</b>	<b>Date of Decision</b>	<b>Decision</b>
<b><i>Customs Act</i></b>			
AP-99-114, AP-99-115 and AP-2000-008	Suzuki Canada Inc. and Canadian Kawasaki Motors Inc.	May 2, 2002	Appeals allowed
AP-2002-004	Asea Brown Boveri Inc.	May 16, 2003	Appeal dismissed
AP-2001-095	Supertek Canada Inc.	May 21, 2003	Appeal dismissed
AP-2001-016	Simms Sigal & Co. Ltd.	May 27, 2003	Appeal allowed
AP-2001-094	AAi.FosterGrant of Canada Co.	June 13, 2003	Appeal dismissed
AP-2002-091	Asea Brown Boveri Inc.	July 2, 2003	Appeal dismissed
AP-2002-022	Power Twins Performance Parts Ltd.	July 15, 2003	Appeal dismissed
AP-2002-099	FHP/Atlantic Inc.	July 18, 2003	Appeal dismissed
AP-2002-092	Richard Rusyn	August 5, 2003	Appeal dismissed
AP-2001-073, AP-2001-074 and AP-2001-084	Nokia Products Limited and Primecell Communications Inc.	August 5, 2003	AP-2001-074 and AP-2001-084 dismissed; AP-2001-073 allowed
AP-2002-103	Mon-Tex Mills Ltd.	September 23, 2003	Appeal dismissed
AP-2002-009	Don L. Mills	September 26, 2003	Appeal dismissed
AP-2002-038 to AP-2002-090	Pfizer Canada Inc.	October 9, 2003	Appeals allowed
AP-2002-095	Conair Consumer Products Inc.	October 20, 2003	Appeal dismissed
AP-2001-097	Sony of Canada Ltd.	February 3, 2004	Appeal allowed in part
AP-2002-096	Browns Shoe Shops Inc.	February 11, 2004	Appeal allowed
AP-2003-007	Black & Decker Canada Inc.	February 12, 2004	Appeal allowed
AP-2002-117	Puratos Canada Inc.	February 13, 2004	Appeal dismissed
AP-2003-008	PartyLite Gifts Ltd.	February 16, 2004	Appeal dismissed
AP-2002-111	BIOnova Medical Inc.	February 24, 2004	Appeal dismissed
AP-2003-013	Franklin Mint Inc.	March 3, 2004	Appeal dismissed
AP-2002-023	Buffalo Inc.	March 11, 2004	Appeal allowed

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## Appeal Decisions Rendered (cont'd)

Appeal No.	Appellant	Date of Decision	Decision
<b><i>Excise Tax Act</i></b>			
AP-2002-006	Gray O'Rourke Sussman Advertising Inc.	April 1, 2003	Appeal dismissed
AP-2002-007	King West Communications Inc.	April 1, 2003	Appeal dismissed
AP-2002-008	The Russo Group Inc.	April 1, 2003	Appeal dismissed
AP-2002-010	Corlab Inc.	April 1, 2003	Appeal dismissed
AP-2002-005	P.L.B. Graphique Inc.	April 10, 2003	Appeal dismissed
AP-2001-004	Staz Communications Inc.	May 22, 2003	Appeal dismissed
AP-2002-104	Praxair Canada Inc.	September 23, 2003	Appeal dismissed
AP-2001-041	Atlantic Promotions Inc.	December 17, 2003	Appeal dismissed
AP-2002-094	Consbec Inc.	February 24, 2004	Appeal allowed
AP-2003-006	Les Produits de Tabac Tremblay Inc.	March 31, 2004	Appeal dismissed
<b><i>SIMA</i></b>			
AP-2001-070	M & M Footwear Inc.	May 8, 2003	Appeal allowed

## TABLE 3 (REVISED)

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

Appeal No.	Appellant	File No./Status
AP-90-117	Artec Design Inc.	T—2066—94
AP-91-141	The Sheldon L. Kates Design Group Limited	T—2957—94 Application dismissed (January 28, 2003)
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 Applications discontinued (July 22, 2002)
AP-97-137	Asea Brown Boveri Inc.	A—171—00 Application discontinued (May 1, 2001)
AP-98-093 and AP-98-094	Cast Terminals Inc.	T—1951—00 Application allowed (April 30, 2003)
AP-99-039 and AP-99-058	Prolith Inc.	T—168—03 Application discontinued (March 11, 2004)
AP-99-062	Barney Printing Limited	T—1627—01
AP-99-114, AP-99-115 and AP-2000-008	Suzuki Canada Inc. and Canadian Kawasaki Motors Inc.	A—358—03
AP-2000-034	Scott Paper Limited	T—1270—02
AP-2000-040	Sable Offshore Energy Incorporated	A—361—02 Application allowed (May 14, 2003)
AP-2000-051	Entrelec Inc.	A—270—03
AP-2001-004	Staz Communications Inc.	T—1529—03
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-2001-070	M & M Footwear Inc.	A—339—03
AP-2001-071	Brecknell, Willis & Co.	A—93—03 Application dismissed (February 27, 2004)

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.

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

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Appeal No.	Appellant	File No./Status
AP-2001-081	Wilton Industries Canada Limited	A—713—02 Application dismissed (September 23, 2003)
AP-2001-088	Wilton Industries Canada Limited	A—66—03 Application dismissed (January 21, 2004)
AP-2001-094	Aai FosterGrants of Canada Co.	A—396—03
AP-2002-005	P.L.B. Graphique Inc.	T—1331—03
AP-2002-006	Gray O'Rourke Sussmann Advertising Inc.	T—1334—03
AP-2002-007	King West Communications Inc.	T—1335—03
AP-2002-008	The Russo Group Inc.	T—1332—03
AP-2002-010	Corlab Inc.	T—1333—03
AP-2002-034 to AP-2002-037	Pierre Roy et Associés Inc. (Pierre Roy), for Lithochrome (1974) Inc. (in Bankruptcy), Le Groupe Lithochrome Inc. (in Bankruptcy), Filmographie P.F. Inc. (in Bankruptcy) and Opticouleur Inc. (in Bankruptcy)	A—88—04
AP-2002-095	Conair Consumer Products Inc.	A—557—03
AP-2002-103	Mon-Tex Mills Ltd.	A—579—03



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# CHAPTER V

## ECONOMIC, TRADE AND TARIFF REFERENCES AND SAFEGUARD INQUIRIES

### ECONOMIC, TRADE AND TARIFF REFERENCES

The *CITT Act* contains broad provisions under which the Government or the Minister of Finance may ask the Tribunal to conduct an inquiry on any economic, trade, tariff or commercial matter. In an inquiry, the Tribunal acts in an advisory capacity, with powers to conduct research, receive submissions and representations, find facts, hold public hearings and report, with recommendations as required, to the Government or the Minister of Finance.

### SAFEGUARD INQUIRIES

Another responsibility of the Tribunal is to conduct inquiries to determine if Canadian producers are being seriously injured by increased imports of goods into Canada. The Tribunal may initiate import safeguard inquiries following a complaint by domestic producers. The Government may also direct the Tribunal to conduct import safeguard inquiries. Pursuant to an inquiry where the Tribunal determines that increased imports of the goods have caused, or are threatening to cause, serious injury to Canadian producers of like or directly competitive goods, the Government may apply import safeguard measures to assist those domestic producers.

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

### Safeguard Inquiries— Imports from China

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



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# CHAPTER VI

## PROCUREMENT REVIEW

### Introduction

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

Any potential suppliers who believe that they may have been unfairly treated during the solicitation or evaluation of bids, or in the awarding of contracts on a designated procurement, may lodge a formal complaint with the Tribunal. A potential supplier with an objection is encouraged to attempt to resolve the issue first with the government institution responsible for the procurement. If this process is not successful or a supplier wishes to deal directly with the Tribunal, the complainant may ask the Tribunal to consider the case by filing a complaint within the prescribed time limit. Complainants may utilize the on-line procurement complaint form that can be found on the Tribunal's Web site 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 the specified time limit. If the Tribunal decides to conduct an inquiry, the government institution and all other interested parties are sent a formal notification of the complaint and a copy of the complaint itself. An official notice of the complaint is also published on MERX and in the *Canada Gazette*. If the contract in question has not been awarded, the Tribunal may order the government institution to postpone awarding any contract pending the disposition of the complaint by the Tribunal, unless the government institution certifies that the procurement is urgent or that the delay would be contrary to the public interest.

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

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

The Tribunal then determines whether the complaint is valid. If the complaint is found to be valid, the Tribunal may make recommendations to the government institution (such as re-tendering, re-evaluating or providing compensation). The government institution, as well as all other parties and interested persons, is notified of the Tribunal's decision. Recommendations made by the Tribunal in its determination are, by statute, to be implemented to the greatest extent possible.

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

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### Summary of Activities

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	2002-2003	2003-2004
<b>NUMBER OF COMPLAINTS</b>		
Carried Over from Previous Fiscal Year	17	15
Received in Fiscal Year	74	83
Remanded	3	3
<b>Total</b>	<b>94</b>	<b>101</b>
<b>CASES RESOLVED</b>		
Withdrawn or Resolved by the Parties	11	8
Abandoned While Filing	1	-
<b>Subtotal</b>	<b>12</b>	<b>8</b>
<b>INQUIRIES NOT INITIATED</b>		
Lack of Jurisdiction	3	7
Late or Improper Filing	10	14
No Valid Basis/No Reasonable Indication of a Breach/Premature	19	27
<b>Subtotal</b>	<b>32</b>	<b>48</b>
<b>INQUIRY RESULTS</b>		
Dismissed	4	3
Complaint Not Valid	11	14
Complaint Valid or Valid in Part	20	15
Remand Decisions	1	2
<b>Subtotal</b>	<b>35</b>	<b>34</b>
<b>OUTSTANDING AT END OF FISCAL YEAR</b>	<b>15</b>	<b>11</b>

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**Summary of  
Selected  
Determinations**

**Montage-DMC  
eBusiness Services, A  
Division of AT&T  
Canada**

*PR-2003-013*

*Determination:  
Compliant Not Valid  
(September 12, 2003)*

During the fiscal year, the Tribunal issued 31 written determinations of its findings and recommendations (excluding the 3 cases that were dismissed), which related to 29 procurement complaints and 2 decisions that had been remanded to the Tribunal by the Federal Court of Canada. In 15 of the 29 non-remand written determinations, the complaints were determined to be valid or valid in part. Eleven 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.

The Tribunal made a determination with respect to a complaint filed by Montage-DMC eBusiness Services, A Division of AT&T Canada (Montage) concerning a procurement by the CCRA for the provision of a licensing and support arrangement for business intelligence software.

Montage submitted that the CCRA violated the provisions of the *AIT*, *NAFTA* and the *AGP* by failing to properly apply the published evaluation criteria; including language in the evaluation criteria that was ambiguous or which allowed more than one reasonable interpretation; failing to follow the sequenced evaluation process identified in the tender documents; and conducting the evaluation in a manner that failed to ensure equal access to the procurement for all Canadian suppliers.

Montage requested that the awarded contract be terminated and that the bids be re-evaluated and, if its proposal was the highest-rated, that it be awarded the contract. In the alternative, Montage requested that it be compensated by an amount equal to its lost profit and lost opportunity and requested its bid preparation costs, as well as its costs relating to complaint proceedings.

Having examined the evidence presented by the parties and considered the provisions of the *AIT*, *NAFTA* and the *AGP*, the Tribunal determined that the complaint was not valid. The Tribunal found no evidence that the CCRA failed to properly apply the evaluation criteria or that the criteria were ambiguous. The Tribunal found that the CCRA did follow the appropriate evaluation process and was unable to find any details pertaining to the allegation of not ensuring equal access to all Canadian suppliers. The Tribunal awarded the CCRA its reasonable costs incurred in relation to responding to the complaint.

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**Dollco Printing  
(Dollco Corporation)**

PR-2003-016

*Determination:*  
Compliant Valid  
(August 5, 2003)

The Tribunal made a determination with respect to a complaint filed by Dollco Printing (Dollco Corporation) (Dollco) concerning a Request for a Supply Arrangement (RFSA) by the Department of Canadian Heritage (CH) for the supply of various printing services.

The Tribunal accepted only two of the five grounds for inquiry originally alleged by Dollco, namely: that CH improperly disqualified Dollco for inclusion in the supply arrangement; and that CH improperly interpreted the “Conflict of Interest Guidelines” used to support its decision to disqualify Dollco.

Dollco requested, as a remedy, that the bid that it submitted in response to the RFSA be evaluated and ranked on its merits.

Having examined the evidence presented by the parties and considered the provisions of the *AIT*, the Tribunal determined that the complaint was valid. The Tribunal found that the RFSA failed to incorporate directly or by reference any clause relating to conflict of interest. In the absence of any definition of conflict of interest, CH left the RFSA with no explicit means of making suppliers aware of what CH considered to be a conflict of interest. It was, therefore, impossible for the Tribunal to determine what CH’s intention was at the time that the RFSA was issued with respect to conflict of interest. CH’s decision to disqualify Dollco was based on a criterion that was not clearly identified in the tender documents and, therefore, was in violation of the *AIT*. The Tribunal recommended that CH reinstate Dollco’s proposal and complete the evaluation process. In the alternative, the Tribunal recommended that any supply arrangements that had been awarded be cancelled and that the solicitation process be restarted with the appropriate instructions relating to conflict of interest. The Tribunal awarded Dollco its reasonable costs incurred in preparing and proceeding with the complaint.

**Goodfellow Cleaners**

PR-2003-039

*Determination:*  
Complaint Valid  
(November 12, 2003)

The Tribunal made a determination with respect to a complaint filed by Goodfellow Cleaners (Goodfellow) concerning a procurement by the Department of Public Works and Government Services (PWGSC), on behalf of the Department of National Defence (DND), for the provision of dry cleaning and laundry services.

Goodfellow alleged that PWGSC had improperly re-tendered the procurement, contrary to the provisions of the *AIT*. It submitted that, prior to any contract award and before the solicitation process was formally cancelled, PWGSC had sought additional bids without cancelling the original requirement.

As a remedy, Goodfellow requested that PWGSC cancel the standing offer that was issued and that it be awarded instead to Goodfellow based upon its

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response to the Request for a Standing Offer (RFSO). It also requested its costs incurred in 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. The Tribunal found that the RFSO did not provide for the cancellation and re-tender of the initial solicitation, nor did it clearly identify “fair value to the Crown” as a criterion that would be used in the evaluation of offers or the methods by which fair value to the Crown would be evaluated. The Tribunal recommended that PWGSC cancel the standing offer and issue it instead to Goodfellow based on its response to the initial solicitation. The Tribunal awarded Goodfellow its reasonable costs incurred in preparing and proceeding with the complaint.

**Marcomm Inc.**

PR-2003-051

Determination:  
Compliant Valid in Part  
(February 11, 2004)

The Tribunal made a determination with respect to a complaint filed by Marcomm Inc. (Marcomm) concerning a procurement by PWGSC for the supply and installation of cable distribution systems for voice and data in buildings occupied by DND within the National Capital Region.

Marcomm alleged that the winning bidder was not compliant with the mandatory criteria of the RFSO. It submitted that only its installation and design personnel had the required familiarity *and* experience with all the products specified in the Statement of Work (SOW) and that, therefore, PWGSC improperly awarded the standing offer to another company.

As a remedy, Marcomm requested that the standing offer be cancelled and issued instead to Marcomm. Alternatively, it requested that it be awarded costs for lost profit or lost opportunity for being denied the opportunity to perform the contract. Marcomm further requested its bid preparation costs and 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 in part. The Tribunal found that the RFSO clearly required that installation personnel be *familiar* with all the products listed in the SOW. The Tribunal also found that the RFSO did not require the proposed installers and designers to have *experience* with all the products listed in the SOW, as was alleged by Marcomm. The Tribunal noted that PWGSC evaluated all proposals consistently, albeit not according to the requirements of the RFSO, and that both companies, Marcomm and the winning bidder, had passed the mandatory and rated criteria portion of the RFSO. As this was the third attempt by the Crown to contract for this work, the Tribunal decided not to require PWGSC to re-tender the requirement. Instead, the Tribunal recommended that PWGSC offer Marcomm one half of the work, by value, that was to be performed under the solicitation. If PWGSC decided that

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**Judicial Review of  
Procurement  
Decisions**

this would not be feasible, the Tribunal recommended that Marcomm be compensated by an amount equal to one half of the profit that it would have reasonably earned, had it been the sole holder of a standing offer in the solicitation. As the complaint was only valid in part, the Tribunal was of the view that both parties should be responsible for their own costs.

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



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

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<b>File No.</b>	<b>Complainant</b>	<b>Date of Receipt of Complaint</b>	<b>Status/Decision</b>
PR-2001-067R	Georgian College of Applied Arts and Technology	March 6, 2002	Decision rendered on November 3, 2003 Tribunal re-affirmed its original decision
PR-2002-015R	ZENON Environmental Inc.	July 12, 2002	Decision rendered on June 10, 2003 Remedy
PR-2002-069R	EDS Canada Ltd.	March 17, 2003	Remanded to the Tribunal
PR-2003-002R	EDUCOM TS Inc. and RAND IT Solutions	April 7, 2003	Remanded to the Tribunal
PR-2002-040	IBM Canada Limited, PricewaterhouseCoopers LLP and the Centre for Trade Policy and Law at Carleton University	November 26, 2002	Decision rendered on April 10, 2003 Complaint not valid
PR-2002-047	Brisk Corporation	December 10, 2002	Decision rendered on April 28, 2003 Complaint valid in part
PR-2002-051	Antian Professional Services Inc.	December 27, 2002	Decision rendered on April 2, 2003 Complaint not valid
PR-2002-055	Questcom Consulting Inc.	January 23, 2003	Decision rendered on April 14, 2003 Complaint dismissed
PR-2002-057	WorkLogic Corporation	January 28, 2003	Decision rendered on June 12, 2003 Complaint not valid
PR-2002-059	Panavidéo Inc.	February 7, 2003	Decision rendered on May 13, 2003 Complaint not valid
PR-2002-060	Polaris Inflatable Boats (Canada) Ltd.	February 7, 2003	Decision rendered on June 23, 2003 Complaint not valid
PR-2002-063	FELLFAB Limited	February 14, 2003	Decision rendered on June 13, 2003 Complaint dismissed
PR-2002-065	1252198 Ontario/Elite Painting	February 18, 2003	Decision rendered on April 10, 2003 Complaint dismissed
PR-2002-066	Berlitz Canada Inc.	February 25, 2003	Decision rendered on July 18, 2003 Complaint valid in part
PR-2002-069	EDS Canada Ltd.	March 17, 2003	Decision rendered on July 30, 2003 Complaint not valid
PR-2002-070	Prudential Relocation Canada Ltd.	March 17, 2003	Decision rendered on July 30, 2003 Complaint valid in part
PR-2002-073	Symbiotic International Consulting Services	March 27, 2003	Not accepted for inquiry, not a designated contract
PR-2002-074	Consortium Genivar – M3E – Université d'Ottawa	March 27, 2003	Decision rendered on August 11, 2003 Complaint valid
PR-2003-001	Bajai Inc.	April 7, 2003	Decision rendered on July 7, 2003 Complaint not valid

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## Disposition of Procurement Complaints (cont'd)

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File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2003-002	EDUCOM TS Inc. and RAND IT Solutions	April 7, 2003	Decision rendered on August 12, 2003 Complaint not valid
PR-2003-003	Dycor Technologies Ltd.	April 8, 2003	Not accepted for inquiry, late filing
PR-2003-004	Virtuel-Âge International Inc.	April 9, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-005	Ready John Inc.	April 9, 2003	Decision rendered on July 14, 2003 Complaint not valid
PR-2003-006	G. DiGiacomo Consulting Services	April 14, 2003	Not accepted for inquiry, not a designated contract
PR-2003-007	Port Weller Dry Docks, a division of Canadian Shipbuilding & Engineering Ltd.	April 14, 2003	Decision rendered on July 14, 2003 Complaint not valid
PR-2003-008	LanStar Cable Networks Inc.	April 16, 2003	Not accepted for inquiry, not a potential supplier
PR-2003-009	Global Upholstery Co. Inc.	April 16, 2003	Complaint withdrawn
PR-2003-010	Bajai Inc.	April 17, 2003	Decision rendered on July 16, 2003 Complaint valid
PR-2003-011	Canadian Waste Services Inc.	April 22, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-012	WorkDynamics Technologies Incorporated	April 25, 2003	Complaint withdrawn
PR-2003-013	Montage-DMC eBusiness Services, A Division of AT&T Canada	April 30, 2003	Decision rendered on September 12, 2003 Complaint not valid
PR-2003-014	MHPM Project Managers Inc.	May 2, 2003	Not accepted for inquiry, premature
PR-2003-015	Patlon Aircraft & Industries Limited	May 2, 2003	Decision rendered on July 31, 2003 Complaint valid
PR-2003-016	Dollco Printing (Dollco Corporation)	May 5, 2003	Decision rendered on August 5, 2003 Complaint valid
PR-2003-017	Celtic Tree Specialists Inc.	May 6, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-018	Victoria Shipyards Co. Ltd.	May 14, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-019	Sirius Consulting Group Inc.	May 20, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-020	L & C Canada Coastal Aviation Inc.	May 23, 2003	Not accepted for inquiry, premature
PR-2003-021	L & C Canada Coastal Aviation Inc.	June 6, 2003	Not accepted for inquiry, no reasonable indication of a breach

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## Disposition of Procurement Complaints (cont'd)

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File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2003-022	Travers Food Service Ltd.	June 6, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-023	MHPM Project Managers Inc.	June 6, 2003	Complaint withdrawn
PR-2003-024	Victoria Shipyards Co. Ltd.	June 11, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-025	St. Joseph Digital Solutions, a St. Joseph Corporation Company	June 17, 2003	Not accepted for inquiry, late filing
PR-2003-026	Peter Cameron & Associates	June 19, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-027	Comprehensive Management Group Ltd.	June 19, 2003	Not accepted for inquiry, late filing
PR-2003-028	Elytra Enterprises Inc.	June 20, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-029	Human Resource Systems Group Ltd.	June 27, 2003	Not accepted for inquiry, late filing
PR-2003-030	Lemmex Group Inc.	June 27, 2003	Decision rendered on September 24, 2003 Complaint not valid
PR-2003-031	Lemmex Group Inc.	June 30, 2003	Not accepted for inquiry, late filing
PR-2003-032	Polar Bear Corporate Education Solutions	July 9, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-033	Pro-Drive Marine Services	July 23, 2003	Not accepted for inquiry, late filing
PR-2003-034	Acquaint Financial	July 24, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-035	Virtual Wave Inc.	July 25, 2003	Decision rendered on October 23, 2003 Complaint not valid
PR-2003-036	Virtual Wave Inc.	July 25, 2003	Not accepted for inquiry, not a designated contract
PR-2003-037	IT/net Ottawa Inc.	July 29, 2003	Decision rendered on December 11, 2003 Complaint not valid
PR-2003-038	Marcomm Inc.	August 1, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-039	Goodfellow Cleaners	August 8, 2003	Decision rendered on November 12, 2003 Complaint valid
PR-2003-040	Koprash Investment Inc., O/A Sunlite Floor Cleaners	August 25, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-041	Atlantic Body Armor	August 27, 2003	Not accepted for inquiry, premature
PR-2003-042	Sanexen Services environnementaux Inc.	September 2, 2003	Not accepted for inquiry, late filing
PR-2003-043	1091847 Ontario Limited	September 3, 2003	Not accepted for inquiry, no reasonable indication of a breach

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## Disposition of Procurement Complaints (cont'd)

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File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2003-044	Gelder, Gingras & Associates Inc.	September 10, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-045	Marathon Management Company	September 15, 2003	Complaint withdrawn
PR-2003-046	Earthwrite	September 17, 2003	Not accepted for inquiry, not a designated contract
PR-2003-047	Southern California Safety Institute, Inc.	September 19, 2003	Decision rendered on December 22, 2003 Complaint valid in part
PR-2003-048	W.E. Canning Inc.	September 24, 2003	Not accepted for inquiry, late filing
PR-2003-049	Halifax Shipyard	September 25, 2003	Complaint withdrawn
PR-2003-050	Advanced Business Interiors Inc.	September 26, 2003	Not accepted for inquiry, late filing
PR-2003-051	Marcomm Inc.	September 29, 2003	Decision rendered on February 11, 2004 Complaint valid in part
PR-2003-052	Indeck Power Equipment Company	October 1, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-053	Haworth Ltd.	October 6, 2003	Not accepted for inquiry, late filing
PR-2003-054	Ottawa Business Interiors Ltd.	October 8, 2003	Not accepted for inquiry, late filing
PR-2003-055	K-W Leather Products Ltd.	October 10, 2003	Decision rendered on November 24, 2003 Complaint valid
PR-2003-056	DAC Aviation International Ltée	October 14, 2003	Not accepted for inquiry, late filing
PR-2003-057	1091847 Ontario Ltd.	October 15, 2003	Not accepted for inquiry, not a potential supplier
PR-2003-058	Hike Metal Products Ltd.	October 23, 2003	Not accepted for inquiry, premature
PR-2003-059	Carsen Group Inc.	November 4, 2003	Not accepted for inquiry, late filing
PR-2003-060	Inland Technologies Canada	November 7, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-061	Hike Metal Products Ltd.	November 10, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-062	Fisher, Folta IRM Inc.	November 10, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-063	AME International	November 10, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-064	Winchester Division – Olin Corporation	November 19, 2003	Accepted for inquiry, case in progress
PR-2003-065	The Powell Group - TPG Technology Consulting Ltd.	November 20, 2003	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-066	Market Research Associates Ltd.	November 27, 2003	Complaint withdrawn

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## Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Date of Receipt of Complaint	Status/Decision
PR-2003-067	IHS Solutions Limited	December 8, 2003	Decision rendered on March 8, 2004 Complaint valid
PR-2003-068	COFCO Credit Company LLC	December 11, 2003	Complaint withdrawn
PR-2003-069	AppDepot Web Services Inc.	December 18, 2003	Decision rendered on March 8, 2004 Complaint valid in part
PR-2003-070	CSI Consulting Inc.	December 19, 2003	Accepted for inquiry, case in progress
PR-2003-071	Hickling Arthurs Low Corporation	December 22, 2003	Decision rendered on March 31, 2004 Complaint valid
PR-2003-072	1112076 Ontario Ltd. O/A Micro Market Business Centre	January 5, 2004	Complaint withdrawn
PR-2003-073	Canadyne Technologies Inc.	January 16, 2004	Accepted for inquiry, case in progress
PR-2003-074	CSI Consulting Inc.	January 21, 2004	Not accepted for inquiry, late filing
PR-2003-075	Fleetway Inc.	January 22, 2004	Accepted for inquiry, case in progress
PR-2003-076	Bosik Vehicle Barriers Ltd.	February 6, 2004	Decision rendered on March 29, 2004 Complaint valid
PR-2003-077	StenoTran Services Inc.	February 11, 2004	Accepted for inquiry, case in progress
PR-2003-078	Laerdal Medical Canada Ltd.	February 17, 2004	Accepted for inquiry, case in progress
PR-2003-079	Foundry Networks Inc.	February 19, 2004	Accepted for inquiry, case in progress
PR-2003-080	Forestell & Associates Human Resources Consulting	February 25, 2004	Not accepted for inquiry, not a designated contract
PR-2003-081	Mitel Networks	March 10, 2004	Not accepted for inquiry, no reasonable indication of a breach
PR-2003-082	Bosik Vehicle Barriers Ltd.	March 22, 2004	Accepted for inquiry, case in progress
PR-2003-083	Bell Helicopters Textron Canada Limited	March 26, 2004	Being filed

## TABLE 2 (REVISED)

### 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 Application dismissed (September 20, 2003)
PR-2001-029	John Chandieux experts-conseils inc.	John Chandieux experts-conseils inc.	A—50—02 Application dismissed (March 23, 2004)
PR-2001-053	Fritz Starber Inc.	Fritz Starber Inc.	A—048—02 Application discontinued (May 6, 2003)
PR-2001-059	MaxSys Professionals & Solutions Inc.	Department of Public Works and Government Services	A—366—02 Application dismissed (May 7, 2003)
PR-2001-067	Georgian College of Applied Arts and Technology	Attorney General of Canada	A—505—02 Application allowed Referred back to Tribunal (May 2, 2003)
PR-2002-017	Cognos Incorporated and Core Software Corp.	Attorney General of Canada	A—720—02 Application dismissed (October 29, 2003)
PR-2002-020	InBusiness Systems Inc.	Attorney General of Canada	A—719—02 Application discontinued (August 5, 2003)
PR-2002-040	IBM Canada Limited, PricewaterhouseCoopers LLP and the Centre for Trade Policy and Law at Carleton University	IBM Canada Limited, PricewaterhouseCoopers LLP and the Centre for Trade Policy and Law at Carleton University	A—223—03 Application discontinued (July 7, 2003)
PR-2002-046	Installation Globale Normand Morin et Fils Inc.	Installation Globale Normand Morin et Fils Inc.	A—42—03 Application withdrawn (May 16, 2003)
PR-2002-050	Verint Technology Inc.	Verint Technology Inc.	A—1—03 Application discontinued (July 31, 2003)
PR-2002-053	Entreprise Marissa Inc.	Entreprise Marissa Inc.	A—101—03
PR-2002-057	WorkLogic Corporation	Attorney General of Canada	A—333—03 Application withdrawn (January 14, 2004)
PR-2002-060	Polaris Inflatable Boats (Canada) Ltd.	Attorney General of Canada	A—334—03
PR-2002-069	EDS Canada Ltd.	Attorney General of Canada	A—316—03 Application allowed (March 24, 2004)
PR-2002-070	Prudential Relocation Canada Ltd.	Royal LePage Relocation Services Limited	A—395—03 Application discontinued (September 29, 2003)

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

File No.	Complainant	Applicant	File No./Status
PR-2003-002	EDUCOM TS Inc. and RAND IT Solutions	Attorney General of Canada	A—391—03 Application allowed (March 29, 2004)
PR-2003-005	Ready John Inc.	Ready John Inc./Department of Public Works and Government Services	A—372—03 A—433—03
PR-2003-007	Port Weller Dry Docks, a division of Canada Shipbuilding & Engineering Ltd.	Attorney General of Canada	A—458—03
PR-2003-015	Patlon Aircraft & Industries Limited	Attorney General of Canada	A—390—03
PR-2003-050	Advanced Business Interiors Inc.	Advanced Business Interiors Inc.	A—544—03
PR-2003-051	Marcomm Inc.	Marcomm Inc.	A—139—04
PR-2003-053	Haworth Ltd.	Haworth Ltd.	A—545—03
PR-2003-055	K-W Leather Products Ltd.	Attorney General of Canada	A—601—03





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# CHAPTER VII

## TEXTILE REFERENCE

### Introduction

Pursuant to a reference from the Minister of Finance dated July 6, 1994, as last amended on January 13, 2004, the Tribunal is directed to investigate requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and to make recommendations, in respect of those requests to the Minister of Finance, that would maximize net economic gains to Canada.

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

### Scope of the Reference

A domestic producer may apply for tariff relief on an imported textile input used, or proposed to be used, in its manufacturing operations. The textile inputs on which tariff relief may be requested are the fibres, yarns and fabrics of Chapters 51, 52, 53, 54, 55, 56, 58, 59 and 60; certain monofilaments or strips and textile and plastic combinations of Chapter 39; rubber thread and textile and rubber combinations of Chapter 40; and products of textile glass fibres of Chapter 70 of the schedule to the *Customs Tariff*. The following yarns are not included in the textile reference:

Knitting yarns, solely of cotton or solely of cotton and polyester staple fibres, measuring more than 190 decitex, of Chapter 52 or subheading No. 5509.53 other than those used to make sweaters, having a horizontal self-starting finished edge and the outer surfaces of which are constructed essentially with 9 or fewer stitches per 2 centimetres (12 or fewer stitches per inch) measured in the horizontal direction.

### Types of Relief Available

The tariff relief that may be recommended by the Tribunal to the Minister of Finance ranges from the removal or reduction of tariffs on one or several, partial or complete, tariff lines, textile- and/or end-use-specific tariff provisions. In the case of requests for tariff relief on textile inputs used in the manufacture of women's swimsuits, co-ordinated beachwear and co-ordinated accessories only, the recommendation could include company-specific relief. The recommendation could be for tariff relief for either a specific or an indeterminate period of time.

	<p><b>Process</b></p> <p>Domestic producers seeking tariff relief must file a request with the Tribunal. Along with their request, producers must file either samples of the textile input for which tariff relief is being sought or a National Customs Ruling from the CBSA covering the input. If the Tribunal determines that the request is properly documented, it will conduct an investigation to determine if it should recommend tariff relief.</p>
<p><b>Filing and Notification of a Request</b></p>	<p>Upon receipt of a request for tariff relief, and before commencement of an investigation, the Tribunal issues a brief electronic notice on its Web site announcing the request. The minimum period of time for the notification of a request before the start of an investigation is 30 days.</p> <p>This notification is designed to increase transparency, identify potential deficiencies in the request, avoid unnecessary investigations, provide an opportunity for the domestic textile industry to contact the requester and agree on a reasonable domestic source of supply, inform other users of identical or substitutable textile inputs, prepare the domestic industry to respond to subsequent investigation questionnaires and give associations advance time for planning and consultation with their members.</p>
<p><b>Investigations</b></p>	<p>When the Tribunal is satisfied that a request is properly documented, it commences an investigation. A notice of commencement of investigation is sent to the requester, all known interested parties and any appropriate government department or agency, such as the Department of International Trade, the Department of Industry, the Department of Finance and the CBSA. The notice is also published in the <i>Canada Gazette</i>.</p> <p>Interested parties include all persons whose rights or pecuniary interests may be affected by the Tribunal's recommendations. Interested parties are given notice of the request and can participate in the investigation.</p> <p>To prepare a staff investigation report, the Tribunal's staff gathers information through such means as questionnaires and plant visits. Information is obtained from the requester and interested parties to determine whether the tariff relief sought will maximize net economic gains for Canada.</p> <p>In most cases, a public hearing is not required, and the Tribunal will dispose of the matter on the basis of the full written record, including the request, the staff investigation report and all submissions and evidence filed with the Tribunal. In cases where the written record is not sufficient to dispose of the matter, a public hearing is held.</p>

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	<p>The procedures for the conduct of the Tribunal’s investigation envisage the full participation of the requester and all interested parties. A party, other than the requester, may file submissions, including evidence, in response to the properly documented request, the staff investigation report and any information provided by a government department or agency. The requester may subsequently file submissions with the Tribunal in response to the staff investigation report and any information provided by a government department, agency or other party.</p>
<p><b>Recommendations to the Minister of Finance</b></p>	<p>The Tribunal will normally issue its recommendations, with reasons, to the Minister of Finance within 120 days from the date of commencement of the investigation. In exceptional cases, where the Tribunal determines that critical circumstances exist, it will issue its recommendations within an earlier specified time frame.</p>
<p><b>Request for Review</b></p>	<p>Where the Minister of Finance has made an order for tariff relief pursuant to a recommendation of the Tribunal, certain domestic producers may ask the Tribunal to commence an investigation for the purpose of recommending the renewal, amendment or termination of the order. A request for the amendment or termination of the order should specify what changed circumstances justify the request.</p>
<p><b>Review on Expiry</b></p>	<p>Where the Minister of Finance has made an order for tariff relief subject to a scheduled expiry date, the Tribunal will, before the expiry date, issue a formal notice that the tariff relief provided by the order will expire unless the Tribunal issues a recommendation that tariff relief should be continued and the Minister of Finance implements the recommendation. The notice invites interested parties to file submissions for or against continuation of tariff relief.</p>

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**Summary of Activities**

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**New Requests**

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	2002-2003	2003-2004
<b>Requests</b>		
Received	10	4
Withdrawn	1	1
Awaiting Initiation of Investigation	4	3
Investigations Completed During the Year	2	8
Investigations in Progress at Year-end	5	1
<b>Recommendations to Minister of Finance</b>		
Tariff Relief	2	7
No Tariff Relief	0	1
<b>Reports to Minister of Finance</b>	<b>2</b>	<b>8</b>
<b>Cumulative Totals (since 1994)</b>		
Requests Received	170	174
<b>Recommendations to Minister of Finance</b>		
Tariff Relief	94	101
No Tariff Relief	48	49

During the fiscal year, the Tribunal issued eight reports to the Minister of Finance that related to eight requests for tariff relief. At year-end, one request was under investigation, and three 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 one report to the Minister of Finance with respect to one review of an order for tariff relief. Table 2 provides information on this review.

The Tribunal also conducted two investigations for the purpose of reconsidering previously issued recommendations for tariff relief. At year-end, one of these investigations was still in progress. Table 3 provides information on these investigations.

**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, 2003, the Tribunal estimates that these tariff items and remission orders covered imports

worth about \$195 million and provided tariff relief worth about \$25 million; for the comparable period in 2002, these amounts were about \$235 million and about \$31 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, 2003, 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 12 chapters, ranged from 0 to 20 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 2003, benefiting from tariff relief, by *Customs Tariff* chapter.

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

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Chapter	Percentage
39	0.01
40	0.00
51	19.81
52	9.42
53	3.99
54	5.72
55	2.61
56	0.39
58	2.05
59	0.88
60	1.91
70	<u>0.08</u>
Weighted Average	<u>0.83</u>

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Source: Statistics Canada.

<p><b>Program Review</b></p>	<p>At the end of fiscal year 2003-2004, the Tribunal was in the final stages of updating the <i>Textile Reference Guide</i>, which was last amended in 1996, and developing procedures for the electronic filing of requests for tariff relief.</p>
<p><b>Summary of Selected Recommendations</b></p>	<p>A summary of some of the Tribunal's recommendations issued during the fiscal year follows.</p>
<p><b>Ring-spun Yarns</b></p> <p>TA-2003-001</p> <p><i>Recommendation:</i> Indeterminate tariff relief (November 3, 2003)</p>	<p>The Tribunal recommended to the Minister of Finance that tariff relief as provided for 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 for an indeterminate period.</p> <p>The Tribunal held a hearing for this review to obtain further evidence and hear arguments in respect of two separate issues: (1) the availability of identical or substitutable ring-spun yarns from domestic producers and their comparability with the subject yarns; and (2) the impact on operations (i.e. the effects on sales, prices, profitability and employment) should the tariff relief be renewed.</p> <p>With respect to the availability of identical or substitutable <i>carded</i> ring-spun yarns measuring 190 decitex or less (31s and finer), the Tribunal determined that Atlantic Fine Yarns Inc. (Atlantic) was not yet in a position to provide carded ring-spun yarns in the finer counts of 32/1 and above. As far as the availability of identical or substitutable <i>combed</i> ring-spun yarns was concerned, the Tribunal noted that, based on the evidence, Atlantic was not in a position to supply such yarns, including those in the coarser range, i.e. 12s, 18s, 24s, required for use in the manufacture of children's knitted wear.</p> <p>Turning to the question of substitutability, the Tribunal was not convinced that carded ring-spun yarns were substitutable for combed ring-spun yarns. It concluded that Atlantic was not, as yet, able to respond to the specific requirements of the knitting industry for the subject yarns covered by the tariff relief order.</p> <p>In terms of impact on their operations, importers and users of the subject yarns argued that, should duties be re-imposed, their operations would be adversely affected, since they would not be able to pass on this extra expense to their customers in a competitive environment where the price, the biggest issue, is "king".</p> <p>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</p>

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**Peerless Clothing Inc.**

TR-2002-005

*Recommendation:  
No tariff relief  
(September 30, 2003)*

and benefits in the form of reduced costs, thereby enabling them to maintain their competitive position in a very price-sensitive marketplace. It recommended to the Minister of Finance that the tariff relief, as provided for ring-spun yarns by the above tariff item numbers, be continued beyond December 31, 2003, for an indeterminate period.

The Tribunal recommended to the Minister of Finance that tariff relief not be granted on importations, from all countries, of dyed, woven fabrics of polyester filament yarns, mixed with single yarns of polyester and cotton, of a weight not exceeding 170 g/m<sup>2</sup>, of subheading No. 5407.82, for use as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers; and dyed, woven fabrics of polyester staple fibres, mixed solely with cotton, of a weight not exceeding 170 g/m<sup>2</sup>, of subheading No. 5513.21, for use as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers.

In its analysis, the Tribunal took into consideration the fact that the subject fabrics are used as pocketing and do not demand the degree of sophistication required in producing fashion fabrics. In this context, the Tribunal was of the view that low volumes of production and sales of alleged identical or substitutable fabrics were not an overriding consideration in addressing the issue of the domestic industry's capability of producing pocketing. The Tribunal believed that Consoltex Inc. (Consoltex) had the required technology and skills to provide pocketing according to the requirements of Peerless Clothing Inc. (Peerless). With regard to Doubletex, the Tribunal found that it had provided sufficient evidence to demonstrate that it produces and distributes a wide variety of fabrics used as pocketing for all segments of the Canadian apparel industry, including the men's and boys' tailored clothing market.

In summary, the Tribunal found that the domestic textile industry produces fabrics substitutable for the subject fabrics and that the economic costs of granting tariff relief would be greater than the economic benefits of granting relief to Peerless and other importers of the subject fabrics. Because the removal of duties would result in tangible costs to the domestic textile industry, the Tribunal believed that tariff relief would not provide net economic gains for Canada. Therefore, the Tribunal recommended that tariff relief not be granted.

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**C.S. Brooks Inc.**  
*TR-2002-006*  
*Recommendation:*  
*Indeterminate tariff relief*  
*(January 21, 2004)*

The Tribunal recommended to the Minister of Finance that tariff relief be granted, for an indeterminate period of time, on importations from all countries of plain woven fabrics, unbleached or bleached, containing 65 percent or more by weight of polyester fibres mixed solely with cotton, of a weight not exceeding 100 g/m<sup>2</sup> and a width of 183 cm or greater, of subheading No. 5407.91 or 5513.11, to be dyed or printed, for use in the manufacture of the following bedding products: comforters, duvets, pillow shams and bed skirts.

In response to concerns raised by Consoltex, the Tribunal noted that none of the four fabrics submitted as samples had any cotton content and, therefore, these fabrics did not conform to the definition of the subject fabrics. It further noted that Consoltex was not likely to lose sales if tariff relief was granted. Therefore, the Tribunal was of the view that any potential risk to Consoltex would be minimal.

Turning to the fabric samples provided by Sunshine Mills Inc. (Sunshine), the Tribunal noted that, based on the analysis carried out by the CCRA, they did not conform to the definition of the subject fabrics, in that they did not contain 65 percent or more of polyester fibres. However, slight changes in the composition of some of these fabrics would result in them falling within the scope of the definition of the subject fabrics. This led the Tribunal to believe that Sunshine had some capability of producing a substitutable product. On the other hand, Sunshine had not provided any evidence to support a conclusion of imminent production or potential to supply commercial quantities of fabrics in the Canadian marketplace that would be acceptable to C.S. Brooks Inc. (Brooks) and other potential buyers. Therefore, the Tribunal concluded that Sunshine had not demonstrated, to the Tribunal's satisfaction, that it would be able, in the foreseeable future, to supply identical or substitutable fabrics to Brooks and other potential buyers.

With regard to Les Tissages Sherbrooke Inc. (TSI), the Tribunal found that TSI had provided sufficient evidence to demonstrate that its production of 50P/50C fabrics that are used in the manufacture of sheets or pillowcases could be at risk, should tariff relief be granted. The Tribunal noted that Brooks was willing to accept a final product description that excluded sheets from the end-use provision. Given that TSI had the ability to supply 50P/50C fabrics and had shown, to the Tribunal's satisfaction, that it currently supplied such fabrics to the Canadian market, the Tribunal was of the view that tariff relief should not be provided for the subject fabrics for use in the manufacture of sheets and pillowcases.

With regard to the issue of net economic impact, the Tribunal saw no direct commercial costs as a result of the tariff relief requested by Brooks. On the basis of the information available to the Tribunal, tariff relief would provide yearly



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benefits of approximately \$1 million to Brooks and other users of the subject fabrics. In addition, tariff relief would provide benefits to Brooks and other users in the form of reduced costs, which would enable them to better position themselves vis-à-vis imports of finished goods from Bangladesh, China, India and Pakistan. Tariff relief could also translate into benefits to the consumer in terms of lower prices.

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

<b>Request No.</b>	<b>Requester</b>	<b>Textile Input</b>	<b>Date of Disposition</b>	<b>Status/Recommendations</b>
TR-2002-001	Richlu Manufacturing Ltd.	Fabric	September 9, 2003	Indeterminate tariff relief
TR-2002-002	Peerless Clothing Inc.	Fabric	May 5, 2003	Indeterminate tariff relief
TR-2002-004	Cavalier Specialty Yarn Inc.	Fibre	May 28, 2003	Request withdrawn
TR-2002-005	Peerless Clothing Inc.	Fabric	September 30, 2003	No tariff relief
TR-2002-006	C.S. Brooks Inc.	Fabric	January 21, 2004	Indeterminate tariff relief
TR-2002-007	Peerless Clothing Inc.	Fabric	February 11, 2004	Indeterminate tariff relief
TR-2002-008	Tribal Sportswear Inc.	Fabric	October 20, 2003	Indeterminate tariff relief
TR-2002-009	Peerless Clothing Inc.	Fabric	Not yet initiated	
TR-2002-010	Ballin Inc.	Fabric	January 15, 2004	Indeterminate tariff relief
TR-2003-001	Tribal Sportswear Inc.	Fabric	February 18, 2004	Indeterminate tariff relief
TR-2003-002	Sunshine Mills Inc.	Yarn	Under investigation	
TR-2003-003	Peeless Clothing Inc.	Nonwoven	Not yet initiated	
TR-2003-004	Peeless Clothing Inc.	Fabric	Not yet initiated	

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## TABLE 2

### Disposition of a Review of a Tariff Relief Order

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Review No.	Expiry No. (Original Request No.)	Textile Input	Original Requester	Date of Disposition	Status/Recommendations
TA-2003-001	TE-2003-001 (TR-94-002)	Yarn	Kute-Knit Mfg. Inc.	November 3, 2003	Continuation of tariff relief

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## TABLE 3

### Disposition of Requests 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.	May 26, 2003	Recommendation reaffirmed
TR-2002-010A	TR-2002-010	Fabric	Ballin Inc.	Under investigation	

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**TABLE 4****Tariff Relief Recommendations in Place**

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

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## Recommendations in Place (cont'd)

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Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-95-013A		Doubletex	5208.11.30 5208.12.40 5208.13.20 5208.19.30 5208.21.40 5208.22.20 5208.23.10 5208.29.20 5209.11.30 5209.12.20 5209.19.30 5209.21.20 5209.22.10 5209.29.20	Indeterminate
TR-95-036		Canadian Mill Supply Co. Ltd.	5208.21.20	Indeterminate
TR-95-037		Paris Star Knitting Mills Inc.	5408.24.11 5408.24.91 5408.34.10 5516.14.10 5516.24.10	Indeterminate
TR-95-051		Camp Mate Limited	5407.41.10 5407.42.10 5407.42.20 5903.20.22	Indeterminate
TR-95-053 and TR-95-059		Majestic Industries (Canada) Ltd. and Caulfeild Apparel Group Ltd.	5802.11.10 5802.19.10 5802.19.20	Indeterminate
TR-95-056		Sealy Canada Ltd.	3921.19.10 5407.69.10 5407.73.10 5407.94.10 5516.23.10 5903.90.21 6005.34.20	Indeterminate
TR-95-057 and TR-95-058		Doubletex	5407.51.10 5407.61.95 5407.61.96 5407.69.10 5515.11.10 5516.21.10 5516.91.10	Indeterminate
TR-95-060		Triple M Fiberglass Mfg. Ltd.	7019.59.10	Indeterminate

## Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-95-061		Camp Mate Limited	6005.31.20 6005.32.20 6005.33.20 6005.34.30	Indeterminate
TR-95-064 and TR-95-065		Lady Americana Sleep Products Inc. and el ran Furniture Ltd.	6005.34.60 6005.44.20	Indeterminate
TR-96-003		Venture III Industries Inc.	5407.61.95 5407.61.96	Indeterminate
TR-96-004		Acton International Inc.	5906.99.21	Indeterminate
TR-97-001		Jones Apparel Group Canada Inc.	5407.91.10 5407.92.20 5407.93.10 5408.21.30 5408.22.40 5408.23.20 5408.31.30 5408.32.40 5408.33.10	Indeterminate
TR-97-002 and TR-97-003		Universal Manufacturing Inc.	5208.43.30 5513.41.20	Indeterminate
TR-97-006		Peerless Clothing Inc.	5407.51.30 5903.90.22 5903.90.23 5903.90.24 6005.31.30 6005.31.40 6005.32.30 6005.32.40 6005.33.30 6005.33.40 6005.34.40 6005.34.50	Indeterminate
TR-97-004, TR-97-007, TR-97-008 and TR-97-010		Blue Bird Dress of Toronto Ltd.	5407.51.20 5407.52.20 5407.61.94 5407.69.20	Indeterminate
TR-97-011		Australian Outback Collection (Canada) Ltd.	5209.31.20 5907.00.16	Indeterminate
TR-97-012		Ballin Inc.	5407.93.30 5516.23.20	Indeterminate
TR-97-014		Lenrod Industries Ltd.	5603.93.40	Indeterminate

## Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-97-015, TR-97-016 and TR-97-020		Helly Hansen Canada Ltd.	5903.20.24	Indeterminate
TR-98-001		Cambridge Industries	5608.19.20	Indeterminate
TR-98-002		Distex Inc.	6006.23.10	Indeterminate
TR-98-004, TR-98-005 and TR-98-006		Ladcal Investments Ltd., O/A Pintar Manufacturing Nour Trading House and T.S. Simms and Company Limited	5806.10.20	Indeterminate
TR-98-007		Caulfeild Apparel Group Ltd.	5208.43.30	Indeterminate
TR-98-016		Peerless Clothing Inc.	5407.93.20	Indeterminate
TR-98-017		Jones Apparel Group Canada Inc.	5408.32.50 5408.33.20 5408.34.20	Indeterminate
TR-98-019		Tribal Sportswear Inc.	5209.12.30 5209.22.20 5209.32.10	Indeterminate
TR-99-002		Albany International Canada Inc.	5404.10.20	Indeterminate
TR-99-003/003A		Western Glove Works Ltd.	5209.31.30 5209.32.30	Indeterminate
TR-99-004		Peerless Clothing Inc.	5112.11.20 5112.11.30 5112.19.20 5112.19.30	Indeterminate
TR-99-005		Distex Inc.	6006.22.20	Indeterminate
TR-99-006		Coloridé Inc.	5402.41.15	Indeterminate
TR-99-008		JMJ Fashions Inc.	5407.61.20	Indeterminate
TR-2000-001		Peerless Clothing Inc.	5408.22.22	Indeterminate
TR-2000-002		Majestic Industries (Canada) Ltd.	5802.19.30	Indeterminate
TR-2000-003		Tantalum Mining Corporation of Canada Limited	5911.40.10	Indeterminate
TR-2000-004		Ballin Inc.	5516.23.30 5516.93.20	Indeterminate
TR-2000-005		Peerless Clothing Inc.	5112.11.40 5112.19.40	Indeterminate



## Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No./Order in Council	Duration
TR-2000-006		Doubletex	5512.11.30 5512.19.20 5513.11.20 5513.12.10 5513.13.10 5513.19.10 5514.11.10 5514.12.10 5514.13.10 5514.19.10 9997.00.00	Indeterminate
TR-2000-007 and TR-2000-008		Scapa Tapes North America Ltd.	5208.21.50 5208.31.20	Indeterminate
TR-2001-001		Gibson Textile Dyers	5512.29.10	Indeterminate
TR-2001-002		Beco Industries Ltd.	5513.41.30	Indeterminate
TR-2002-001		Richlu Manufacturing Ltd.	5209.39.10	Indeterminate
TR-2002-002		Peerless Clothing Inc.	5602.10.20	Indeterminate
TR-2002-008		Tribal Sportswear Inc.	5515.11.20	Indeterminate
TA-98-001	TE-97-004 (TR-95-009)	Dyed woven fabrics of rayon and polyester	5408.31.20 5408.32.30	Indeterminate
TA-98-002	TE-97-003 (TR-94-009)	Vinex FR-9B fabric	5512.99.10	Indeterminate
TA-98-003	TE-98-001 (TR-95-014)	Woven cut warp pile fabrics	5801.35.10	Indeterminate
TA-2003-001	TE-2003-001 TE-2001-001 TE-98-002 (TR-94-002 and TR-94-002A)	Ring-spun yarns	5205.14.20 5205.15.20 5205.24.20 5205.26.20 5205.27.20 5205.28.20 5205.35.20 5205.46.20 5205.47.20 5205.48.20 5206.14.10 5206.15.10 5206.24.10 5206.25.10 5509.53.10 5509.53.20 5509.53.30 5509.53.40	Indeterminate



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## PUBLICATIONS

<b>June 2003</b>	Annual Report for the Fiscal Year Ending March 31, 2003
<b>June 2003</b>	Bulletin—Vol. 15, No. 1*
<b>September 2003</b>	Bulletin—Vol. 15, No. 2*
<b>October 2003</b>	Departmental Performance Report for the Period Ending March 31, 2003
<b>November 2003</b>	Designation, Protection and Use of Confidential Information
<b>November 2003</b>	Guide to Making Requests for Product Exclusions
<b>November 2003</b>	Canadian Imports Affected by Anti-dumping and Countervailing Measures 1995-2002
<b>December 2003</b>	Bulletin—Vol. 15, No. 3*
<b>January 2004</b>	Guideline for Fixing Costs in Procurement Complaint Proceedings
<b>February 2004</b>	Trade Actions Database
<b>March 2004</b>	Procurement Review Process: A Descriptive Guide
<b>March 2004</b>	Bulletin—Vol. 15, No. 4*

\* Available only on the Tribunal's Web site.

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