

Transportation Appeal Tribunal of Canada

For the period ending March 31, 2011

Departmental Performance Report

The Honourable Denis Lebel, P.C., M.P.
Minister of Transport, Infrastructure and Communities

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Minister's Message



It is my privilege to report the activities of the Transportation Appeal Tribunal of Canada (or the “Tribunal”). The reporting period of 2010-2011 represents 25 years of service by the Tribunal which, together with its predecessor, the Civil Aviation Tribunal, has delivered high quality adjudicative service to Canadians.

The Tribunal is a quasi-judicial body adjudicating matters that have a serious impact on the livelihood and operations of the aviation, marine and rail sectors of the Federal transportation system and recently, transportation security issues.

The Tribunal has made progress and innovations while keeping up with its expanding mandate to include cases under the Marine Transportation Security Act and the Canada Shipping Act, 2001. Over the years, the Tribunal’s practice and procedures have been flexible, innovative and straightforward and the Tribunal became one of the Federal government's best practices organizations. The basic principles governing the Tribunal are those of independence and transportation expertise in an administrative law environment espousing the principles of fairness and natural justice.

The very existence of the Tribunal, as a forum for the review of enforcement and licensing decisions has, in and of itself, created an environment for the resolution of matters between Transport Canada and the air, marine and rail industries that it regulates. That is to say, that the Tribunal provides a forum for the parties to talk to each other, to communicate and that alone facilitates the resolution of many matters, such as aviation medical cases.

Finally, I offer my gratitude to all Tribunal Members and employees for their dedication to the provision of an independent review process for the benefit of Canada's aviation, marine and rail community. I am confident that the Tribunal can continue to meet future challenges with the commitment to excellence evidenced by its past and present performances of the Tribunal.

The Honourable Denis Lebel, P.C., M.P.
Minister of Transport, Infrastructure and Communities and Minister of the Economic
Development Agency of Canada for the Regions of Quebec

Section I: Organizational Overview

Raison d'être

The mandate and the jurisdiction of the Transportation Appeal Tribunal of Canada (the “Tribunal”) are provided for by the Transportation Appeal Tribunal of Canada Act. The Tribunal's principal mandate as a multimodal review body is to hold Review and Appeal Hearings at the request of interested parties with respect to certain administrative actions taken under various Federal transportation Acts.

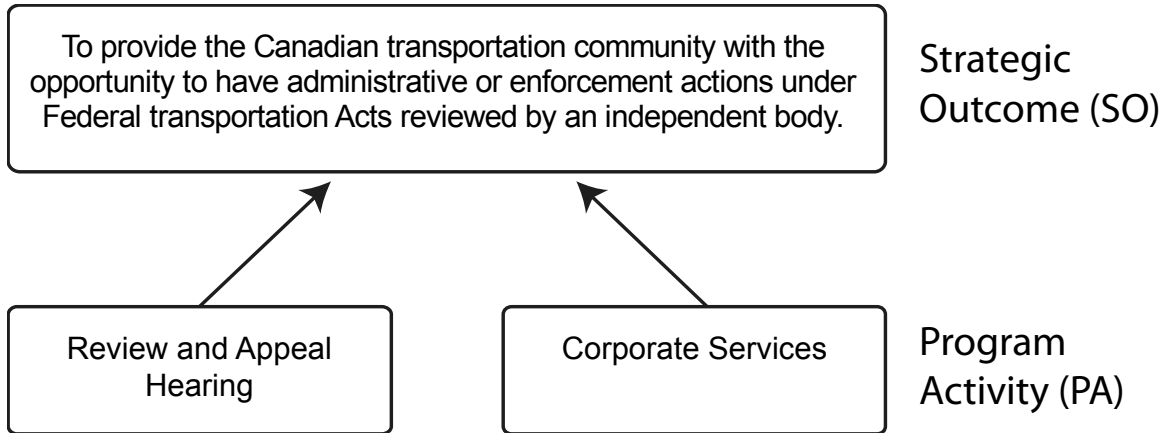
Responsibilities

The Transportation Appeal Tribunal of Canada provides the national transportation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body. The Minister's enforcement and licensing decisions may include the imposition of monetary penalties or the suspension, cancellation, refusal to renew or refusal to issue or amend documents of entitlement on medical or other grounds. The person or corporation affected is referred to as the document holder.

These decisions are reviewed through a two-level hearing process: Review and Appeal Hearings. All Hearings are to be held expeditiously and informally, in accordance with the rules of fairness and natural justice.

At the conclusion of a Hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

Strategic Outcome(s) and Program Activity Architecture (PAA)



Organizational Priorities

Performance/Priority Status Legend

Exceeded: More than 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding Report on Plans and Priorities (RPP) was achieved during the fiscal year.

Met all: 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Mostly met: 80 to 99 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Somewhat met: 60 to 79 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Not met: Less than 60 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Priority	Type ¹	Strategic Outcome(s) and/or Program Activity(ies)
Hold hearings expeditiously and informally	Ongoing	To provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under Federal transportation Acts reviewed by an independent body.
Status: Mostly Met		
<u>Summary of accomplishments:</u>		
<ul style="list-style-type: none"> • Services were available to informally resolve transportation related disputes in a manner that is simple, rapid, less litigious and less costly; • Hearings were conducted in accordance with the rules of fairness and natural justice; • Use of pre-hearing conferences streamlined and expedited hearing processes; • Consistent and high quality decisions rendered 		
<u>Work in progress:</u>		
<ul style="list-style-type: none"> • <u>The Tribunal is increasing its efforts to attract qualified transportation experts to join the Tribunal as Members</u> 		

1. "Type" is categorized as follows: **Previously committed to**—committed to in the first or second fiscal year before the subject year of the report; **Ongoing**—committed to at least three fiscal years before the subject year of the report; and **New**—newly committed to in the reporting year of the Departmental Performance Report.

Priority	Type	Strategic Outcome(s) and/or Program Activity(ies)
Business Continuity Planning	Ongoing	To provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under Federal transportation Acts reviewed by an independent body.
Status: Met All		
<ul style="list-style-type: none"> A Business Continuity Plan has been in place since 2007 and is reviewed on a yearly basis to ensure and maintain its business continuity plan readiness. 		

Priority	Type	Strategic Outcome(s) and/or Program Activity(ies)
Increase awareness of the Transportation Appeal Tribunal of Canada with respect to its mission, mandate, role and results achieved	Ongoing	To provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under Federal transportation Acts reviewed by an independent body.
Status: Met All		
<ul style="list-style-type: none"> Enhancements and improvements to the Tribunal website along with making decisions available to the public has increased awareness and provided better information among the transportation community and key stakeholders with respect to the Tribunal's mandate and services. The Tribunal is educating transportation stakeholders through presentations, seminars and speeches, as well as attendance at aviation, marine and rail conferences or symposiums. 		

Risk Analysis

As a micro-organization, due to increased enforcement proceedings emanating from the marine sector, the Tribunal's main risk is the increased pressure on its resources from an increased and unpredictable workload, as well as the need to meet the obligations of government-wide horizontal initiatives. The Tribunal's activities are driven by external demands that it can only react to rather than plan for.

In addition to an increased demand for services, the Tribunal has had to manage ongoing increases in operating costs, such as the per diem for Members, hotels, hearing rooms, court reporters, travel charges, information technology upgrades and translation costs, while its funding budget has remained stable.

It must be noted, however, that one of the most important risks is the number and skill set of Members available to conduct hearings. In order to deliver on our mandate and program, the Tribunal needs to have Members with the right mix of skills and talents in all three modes of transportation, as well as medical expertise.

Accordingly, the Tribunal has in place numerous strategies to mitigate these potential risks, which include seeking additional funding to sustain its multi-modal transportation mandate, as well as increasing its efforts to attract qualified transportation experts to join the Tribunal as Members.

Summary of Performance

2010–11 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
1,785.2	1,785.2	1,732.0

2010–11 Human Resources (full-time equivalents—FTEs)

Planned	Actual	Difference
12	8	4

Strategic Outcome: To provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation Acts reviewed by an independent body.

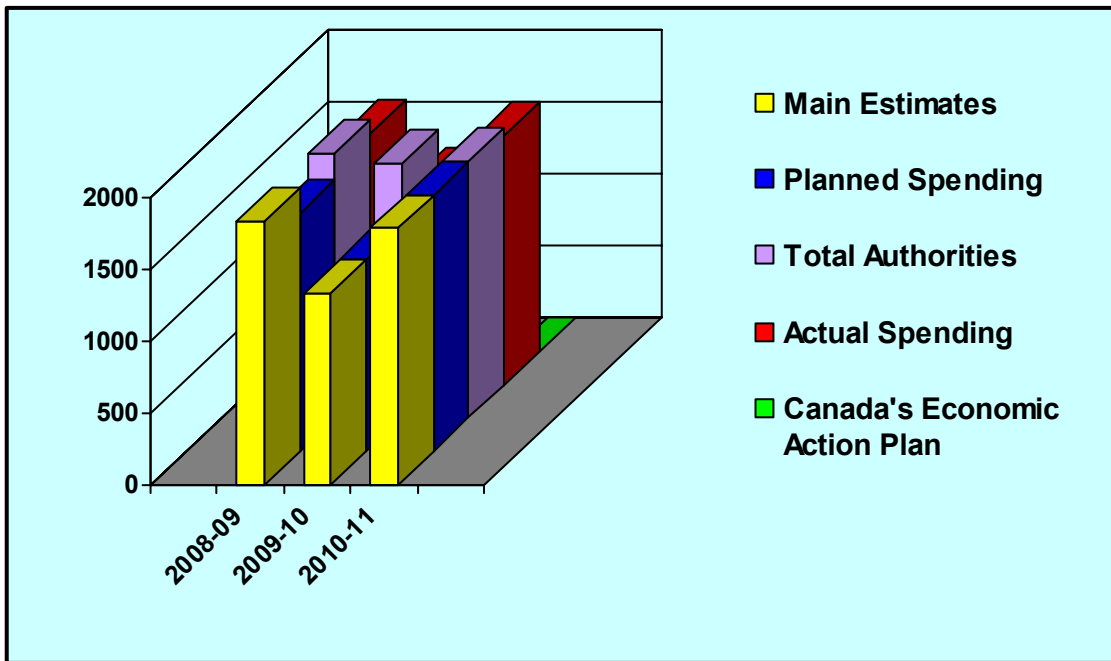
Performance Indicators	Targets	2010–11 Performance				
% of disposition of Review and Appeal Hearings within 90 days of request for a Hearing.	100% decisions rendered within 90 days.	The average lapsed time between the conclusion of a Review Hearing and the issuance of a determination was on average 98 days for a Review Hearing and 160 days for an Appeal Hearing. The increase in lapsed time was caused by the increased complexities of the cases brought before the Tribunal, and also an increase in the number of cases				
% of Members provided with training or refresher courses.	100% of Members provided with training within 120 days of their appointment.	During fiscal year 2010-2011, PCO appointed six Members to the Tribunal who were provided training. All new Members were provided with training within 120 days of their appointment.				
% of Registry staff provided with GIC training.	100% of staff provided with training at fiscal year-end.	As part of their learning plans, Registry staff participated in the three-day training session.				
% of decisions published on Web site.	100% of decisions are published on our Web site within 120 days of a Hearing.	With the exception of those decisions rendered in excess of 120 days of the Hearing, all decisions are published within 120 days of the Hearing, as set out in the Tribunal's targets.* *Except for medical cases and in-camera hearings where information is kept confidential.				
Program Activity	2009–10 Actual Spending (thousands of dollars)	2010–11 ² (thousands of dollars)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Review and Appeal Hearings	1165.6	1,426.5	1,426.5	1,426.5	1,388.5	A safe and secure Canada

2. Commencing in the 2009–10 Estimates cycle, the resources for Program Activity: Internal Service is displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

Program Activity	2009–10 Actual Spending (thousands of dollars)	2010–11 (thousands of dollars)			
		Main Estimates	Planned Spending	Total Authorities	Actual Spending
Internal Services	263.6	358.7	358.7	358.7	343.5

Expenditure Profile

Departmental Spending Trend
(\$ thousands)



Estimates by Vote

For information on our organizational Votes and/or statutory expenditures, please see the 2010–11 Public Accounts of Canada (Volume II) publication. An electronic version of the Public Accounts is available on the Public Works and Government Services Canada website.³

3. See Public Accounts of Canada 2010, <http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html>.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

The strategic outcome of the Tribunal is to provide the Canadian transportation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body.

The Tribunal's only activity is the provision of an independent review process for aviation, marine and rail by providing document holders with the opportunity to proceed with a Review or Appeal Hearing. The Tribunal represents the only forum ensuring that document holders have access to an independent assessment governed by considerations of natural justice. Its role does not overlap with, nor is it duplicated by, any other Federal agency, board, commission or tribunal. It is unique in the national transportation field, in that its function is entirely adjudicative.

Program Activity: Review and Appeal Hearings

Provides for the operation of an independent Transportation Appeal Tribunal of Canada to respond to requests from the transportation community for review of enforcement and licensing decisions taken by the Minister of Transport under the following Acts:

- [Aeronautics Act](#), R.S.C 1985, c. A-2
- [Canada Marine Act](#) 1998, c. 10
- [Canada Shipping Act, 2001](#), R.S.C. 1985, c. S-9
- [Canada Transportation Act](#), S.C. 1996, c. 10
- [Marine Transportation Security Act](#), S.C. 1994, c. 20
- [Railway Safety Act](#), R.S.C. 1985, c. 32 (4th Supp.)

and to conduct Hearings. At the conclusion of a Review or Appeal Hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

2010–11 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
1,426.5	1,426.5	1,388.5

2010–11 Human Resources (FTEs)

Planned	Actual	Difference
9	6	3

Expected Results	Performance Indicators	Targets	Performance Status
Access to an independent assessment governed by considerations of natural justice	Hearings conducted in a timely manner	100% decisions rendered within 90 days	Mostly Met
Plans, measures and arrangements are in place to ensure the continuous delivery of critical services, which permits the organization to recover its data and assets	Business Continuity Plan developed Tools to maintain business continuity plan readiness, such as contingency, emergency response plan for example.	March 2010	Met All
Improved awareness and better information among the Transportation community and key stakeholders with respect to the Tribunal's mandate, services and decisions	Tribunal information accessible to the lay person in a timely manner	June 2010	Met All

Performance Summary and Analysis of Program Activity

The program's effectiveness can be measured by its ability to provide the Canadian transportation community with the opportunity to have Ministerial decisions reviewed fairly, equitably and within a reasonable period of time.

The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal and to disclose and exchange documents. This reduces the length of the hearings and avoids last-minute adjournments necessitated by late disclosure.

Facilitating discussions between the parties has also been particularly effective in settling licence suspensions and the refusal to renew on medical grounds without the necessity of a Review

Hearing. The Tribunal Registrars contact the parties to schedule mutually agreed to Hearing dates to the extent possible to avoid unnecessary adjournments.

In 2009-2010, the Tribunal did not refer any cases back to the Minister of Transport for reconsideration, pursuant to section 7.1 of the Aeronautics Act. In 2010-2011, the Tribunal referred 3 cases back to the Minister for reconsideration, in light of the Tribunal lacking the power to substitute its own decision for that of the Minister in those cases. The average lapsed time between the conclusion of a Review Hearing and the issuance of a determination is 98 days and 160 days for an Appeal Hearing.

Lessons Learned

To promote communication between the parties with a view to settlement, the Registry encourages early disclosure of documents to the Document Holder or the Applicant. In order to resolve outstanding issues that may delay the scheduling of a Review or Appeal Hearing, the Registry will arrange a teleconference with a Tribunal Member.

In addition, experiences in aviation sector cases will prove valuable as marine and, eventually, rail sector cases increase in complexity and frequency and will provide precedents in training sessions for new Members.

Program Activity: Internal Services

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services include only those activities and resources that apply across an organization and not to those provided specifically to a program.

2010–11 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
358.7	358.7	343.5

2010–11 Human Resources (FTEs)

Planned	Actual	Difference
3	2	1

Performance Summary and Analysis of Program Activity

As a micro-organization, the Tribunal relies heavily on third parties for the provision of many of its Internal Services. During this fiscal year, a Memorandum of Understanding (MOU) with Transport Canada was established to formalize a service relationship with the Tribunal for the provision of human resources, financial management, accounting, contracting, information management technology and security services. The MOU describes the roles and responsibilities of each party with clarity and will enhance the efficiency of the delivery of these specific services.

Lessons Learned

Through the advice received from third parties, the Tribunal will continue to implement changes to improve the delivery of its Internal Services.

Section III: Supplementary Information

Financial Highlights

Condensed Statement of Financial Position

As at March 31, 2011 (\$ denomination)

	% Change	2010–11	2009–10
Total assets	20.5%	235,780	195,704
Total liabilities	6.1%	389,277	367,030
Equity of Canada	10.4%	-153,497	-171,326
Total	20.6%	235,780	195,704

Condensed Statement of Operations

For the year ended March 31, 2011 (\$ denomination)

	% Change	2010–11	2009–10
Total expenses	20.6%	1,943,780	1,611,963
Total revenues	-	-	-
Net cost of operations	20.6%	1,943,780*	1,611,963*

*includes services received without charge

Financial Statements

Financial statements for the Transportation Appeal Tribunal of Canada can be found at www.tatc.gc.ca.

List of Supplementary Information Tables

All electronic supplementary information tables found in the *2010–11 Departmental Performance Report* can be found on the Treasury Board of Canada Secretariat website.⁴

4. See 2010–11 Part III—Departmental Performance Reports (DPR): Supplementary Information (Tables), <http://www.tbs-sct.gc.ca/dpr-rmr/2010-2011/index-eng.asp>.

Section IV: Other Items of Interest

Organizational Contact Information

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