

Canada Border Services Agency

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Internal Audit and Program Evaluation Directorate

Evaluation of the Recourse Program

May 2017

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Acronyms and Abbreviations

AAAMP

Agriculture and Agri-food Administrative Monetary Penalty

ACI

Advanced Commercial Information

AMP

Administrative Monetary Penalty

APS

Agency Performance Summary

BCCC

Border Commercial Consultative Committee

BSO

Border Services Officer

CART

Canadian Agricultural Review Tribunal

CBSA

Canada Border Services Agency

CHRC

Canadian Human Rights Commission

CHRT

Canadian Human Rights Tribunal

CITT

Canadian International Trade Tribunal

CRA

Canada Revenue Agency

DOJ

Department of Justice

ECM

Enhanced Complaint Mechanism

FTE

Full Time Equivalent

FY

Fiscal Year

GC

Government of Canada

NHQ

National Headquarters

OGD

Other Government Department

PCMLTFA

Proceeds of Crime (Money Laundering) and Terrorist Financing Act

POE

Port of Entry

RAM

Resource Allocation Model

RCMS

Recourse Content Management System

RMI

Recourse Modernization Initiative

SIMA

Special Import Measures Act

TBS

Treasury Board Secretariat

TTP

Trusted Traveller Program

WCO

World Customs Organization

WTO

World Trade Organization

Executive Summary

Program Description

The objective of the Recourse Program is to provide individuals and the business community access to a redress mechanism to seek an impartial review of service-related complaints, program decisions and enforcement actions taken by the Canada Border Services Agency (CBSA). The Recourse Program ensures that its decisions are fair, transparent and accurately reflect the Agency's policies and the Acts administered by the CBSA.

Evaluation Purpose and Scope

The purpose of this evaluation is to assess the relevance, effectiveness and efficiency of the administrative review functions carried out by the Recourse Program.

The scope of the evaluation centred on enforcement and trade appeals, and included the Recourse Program's support functions on litigation, reviews of rejections, suspensions or cancellations from the Trusted Traveller Program (TTP), and the Enhanced Complaint Mechanism (ECM). The evaluation analyzed the Recourse Program's operational, performance and financial data between 2011-2012 and 2015-2016. Since additional business lines have been added to the mandate of the Recourse Program and performance data became available, the evaluation included some 2016-2017 data.

The evaluation excludes ECM activities performed by other program areas within the Agency (e.g., Operations) as the performance of these activities are not reflected in the Recourse Program's outcome. However, the administrative role performed by the Recourse Program for the ECM and its current ECM delivery were included in the efficiency section.

Findings and Recommendations

Relevance

There is a continued need for the Recourse Program as it fulfils the requirement for the Agency to provide a redress mechanism, as outlined in the legislation including the Customs Act, the Special Import Measures Act and other legislation. By providing individuals and the business community access to an administrative review process and the right to appeal decisions, the program's role is in line with international agreement and the CBSA's Service Commitment for ensuring fairness, accountability and

client service.

Achievement of Expected Outcomes

Access to redress mechanisms that are timely

The Recourse Program has established service standards and targets for acknowledging receipt of an appeal and for rendering decisions. While the program has been meeting or exceeding its target for acknowledgment, it has yet to consistently meet its processing time targets for both enforcement and trade appeals. The Recourse Program has implemented measures to address the processing delays for enforcement appeals. A strategy for trade appeals is being developed.

Programs and Operations have Access to Information on Appeal Decisions

The Recourse Program provides access to information on appeal decisions via various media, and in the form of corporate reports and pivot tables. Although the program delivers on the immediate outcome of sharing of information, there are opportunities to improve the quality of information to align with the needs of some end-users.

The Recourse Program has differing communication approaches in enforcement and trade appeals. In addition, Recourse's decisions are not consistently communicated to the frontline officers across all regions. As a result, in comparison to trade officers, the border services officers are less satisfied by the level of engagement and information sharing in enforcement appeals.

Recourse Principles and the Review Process

When rendering decisions, the Recourse Program adheres to the principles of procedural fairness and natural justice. The current procedures for trade appeals need to be updated to align with the recourse principles. The extent to which Recourse's decisions are considered accurate could not be determined, as no comparable benchmarks have been established.

Improvements to Service and Program Delivery and Consistency in Decisions

While the decisions rendered by the Recourse Program may improve service and program delivery, such as in the trade area, given data limitations and the lack of measureable performance indicators, the extent to which the program is contributing to improvement to service delivery could not be assessed.

Demonstration of Efficiency and Economy

Efficiency and Cost Effectiveness

Expenditures related to the Recourse Program have been decreasing since 2013-2014. The decrease in resources was one of the contributing factors leading to a decline in outputs (decisions). With the decline in output (i.e. recourse decisions), the cost per decision has increased.

With the expanding workload, the Recourse Program will continue to face human resourcing challenges given that over 40% of its current workforce will be eligible to retire in 2020. The loss of their expertise could negatively affect both productivity and timeliness.

Other Considerations

While the Recourse Program performs an administrative function for the ECM, it does not have a direct impact on the performance of the ECM or the Agency's ability to meet service standards.

Recommendations

To enhance the delivery, management, and reporting on performance of the Recourse Program and to ultimately ensure that it achieves its objective, the evaluation made five recommendations:

1. The Vice-President of Corporate Affairs should review, develop and publish service standards for trade and Trusted Traveller Programs appeal decisions, and develop a plan to meet these service standards;
2. The Vice-President of Corporate Affairs, in consultation with the Vice-Presidents of Operations and Programs Branches, should improve the quality of information provided to frontline operations on enforcement appeal decisions, and report on how the sharing of Recourse's decisions leads to policy, procedure and service delivery improvements;
3. The Vice-President of Operations should confirm the mechanisms to improve the sharing of information on enforcement appeal decisions with frontline operations;
4. The Vice-President of Corporate Affairs should review and update the existing trade appeal process to ensure recourse principles for fair decision-making are adhered to; and
5. The Vice-President of Corporate Affairs, in consultation with the Vice-President of Operations, should review and update the Enhanced Complaint Mechanism to improve its effectiveness in achieving its intended objectives.

1.0 Introduction

The Canada Border Services Agency (CBSA) administers over 90 acts, regulations and international agreements. As part of its responsibilities, the CBSA determines whether goods can be released for entry into Canada. Commercial importers submit accounting documents stating the tariff classification, origin and value for duty of the goods. Incorrect reporting or non-compliance with the regulations on the part of importers and travellers can result in adjustments in the duties and taxes owed, enforcement actions or penalties. ¹

Under the Customs Act, other federal legislation, ² and numerous international free trade agreements, ³ individuals and companies have the right to request a review of CBSA decisions related to enforcement actions (e.g., seizures, ascertained forfeitures, penalties) or trade decisions (e.g., origin, tariff classification, value for duty, marking/labeling). ⁴ Through the delivery of the Recourse Program, the CBSA provides the business community and travellers with access to a redress mechanism to ensure that

trade decisions, enforcement actions and other program decisions are in accordance with the applicable policies, Acts and Regulations ⁵ as administered by the Agency.

1.1 Program Context

The Recourse Program is managed and delivered separately from other CBSA programs and operational areas that are responsible for enforcement actions or trade decisions. The Recourse Directorate within the Corporate Affairs Branch at the CBSA National Headquarters (NHQ) has overall responsibility for the Recourse Program, which includes three offices in the Quebec and Greater Toronto Area (GTA) regions.

The program serves two main groups: travellers and trade partners. Trade partners include customs brokers, importers, exporters, warehouse operators and carriers who submit an appeal of a trade decision or penalty levied by the CBSA.

Travellers or trade partners who disagree with an enforcement action or trade decision can request a review or appeal to the CBSA. ⁶ The Recourse Program reviews appeals and considers the relevant legislation, Agency policies, the client's point of view and technical opinions provided by CBSA specialists, jurisprudence and legal advice from the Department of Justice (DOJ).

Individual travellers can request a review of a CBSA enforcement action by completing the electronic appeal form, by fax or in writing to the Recourse Directorate. Appeals must be submitted within 90 days of the date of the enforcement action or program decision. For trade decisions, there is a prescribed form and manner for submitting requests for re-determinations, as described in D-Memorandum 11-6-7. ⁷ In response to the request for review, the client is provided with an acknowledgement letter and an appeals officer will then begin a case review.

Most requests for a review of an enforcement action or trade re-determination must be filed within 90 days of issuance, although extensions may be granted under specific circumstances. ⁸ The program has a service standard for appeal decisions to be completed in 180 calendar days.

Appellants who are dissatisfied with the Recourse Program's decisions are provided means to request an external body to review the decision, such as, an independent judicial review or an appeal to the federal courts, or an appeal to an administrative tribunal such as the Canadian International Trade Tribunal (CITT) or Canadian Agriculture Review Tribunal (CART). The Recourse Program assists the DOJ in representing the CBSA on appeals submitted to these other redress mechanisms. For appeals before CART, Recourse represents the CBSA directly before this administrative body.

In the past year, the Recourse Program has accepted responsibility within the CBSA for appeals related to several other business lines. For example, beginning in April 2016, the program began handling appeals associated with membership denials, suspensions and revocations for the CBSA Trusted Traveller Programs (TTP) (NEXUS, CANPASS, FAST, and Commercial Driver Registration Program) ⁹, and requests for re-determination under the Special Import Measure Act (SIMA). Previously TTP appeals, considered first-level reviews were handled by the TTP enrollment centres. The Recourse Program was only responsible for second-level review of appeals, if they were not previously resolved.

The Recourse Program is also responsible for the administrative aspect of the ECM, which is a client

feedback process launched by the CBSA in January 2011. The ECM provides clients with a centralized system to submit complaints, comments and compliments. The Recourse Program also manages the review of external complaints of discrimination filed with the Canadian Human Rights Commission.

In 2015-2016, the Recourse Program had 104.75 full time equivalents (FTE) and had direct program expenditures of \$8.85 million ¹⁰. Appeal decisions are the main output of the Recourse Program. A summary of the number of decisions over the five-year evaluation period covered is shown in Exhibit 1.

Exhibit 1: Recourse Decisions, 2011-2012 to 2016-2017 ¹¹

	FY 2011-2012	FY 2012-2013	FY 2013-2014	FY 2014-2015	FY 2015-2016	FY 2016-2017
Decisions	4,794	3,755	3,314	3,201	2,840	4,394

Source: CBSA systems data as of March 2017

A more detailed description of the program is provided in [Appendix B](#).

The program has a logic model with the following intended outcomes ¹²:

- Immediate Outcomes:
 - Travellers and the business community have access to redress mechanisms that are timely.
 - Programs and Operations have access to information related to the quality of the service, decisions and actions of programs/officers.
- Intermediate Outcomes:
 - Recourse provides a fair and accurate review mechanism.
- Ultimate Outcome:
 - Feedback from Recourse results in improvements to service and program delivery, resulting in more consistent decisions for travellers and the import/export community related to the enforcement of laws administered by the CBSA.

1.2 Evaluation Purpose, Scope and Methodology

The Recourse Program falls under the CBSA Program Alignment Architecture (PAA) as one of seven programs (Program 1.6). It was identified for evaluation in the 2015-2020 CBSA Five-Year Evaluation Plan and approved by the Executive Evaluation Committee (EEC) in May 2015. A previous evaluation of the program was completed in April 2012. ¹³

In accordance with the 2009 Treasury Board Secretariat (TBS) Policy on Evaluation (now replaced by the 2016 Policy on Results), the purpose of the evaluation was to examine the relevance and performance (effectiveness, efficiency and economy) of the Recourse Program.

The scope of the evaluation focused on enforcement and trade appeals, support to enforcement and trade litigations, and the Enhanced Complaint Mechanism (ECM) activity conducted by the Recourse Program. The activities pertaining to enforcement appeals include seizures, ascertained forfeitures ¹⁴, penalties, and reviews of rejections, suspensions or cancellations from a TTP. Trade appeals activities include re-determinations of the origin, tariff classification, value for duty, marking / labeling of goods, penalties and appeals under the Special Import Measures Act (SIMA). The support activities for enforcement and trade litigations include the work that the Recourse Program conducts to support the DOJ in developing and defending the Agency's cases before the courts and tribunals.

The evaluation analyzed the Recourse Program's operational, performance and financial data between 2011-2012 and 2015-2016. Since additional business lines have been added to the mandate of the Recourse Program, the evaluation includes some data for 2016-2017.

The research phase of the evaluation was conducted between June 2016 and February 2017 and included both quantitative and qualitative research methods (see the description in [Appendix C – Evaluation Methodology](#)). The evaluation team conducted interviews within the CBSA and with external stakeholders, analyzed program performance and financial data, reviewed key documentation and conducted field research in the three trade offices in the Greater Toronto Area (GTA) and Quebec regions.

For this evaluation, the following limitations should be considered:

- The evaluation conducted a partial assessment of economy and efficiency, by examining trends in such indicators as the cost per appeal decision;
- The evaluation did not conduct a survey of clients (i.e., trade partners and travellers who have submitted an appeal to the program). However, interviews were conducted with several members of the Border Commercial Consultative Committee (BCCC) which includes representatives of industry associations, large importers, customs brokers, shippers and the legal community;
- Financial data for this evaluation is limited to three years, as the regional trade offices were not consolidated into the Recourse Program until 2013; and
- The Recourse Program logic model and key performance indicators are currently under review in order to ensure alignment with the new TBS Policy on Results and the proposed Departmental Results Framework, including a review of the activities, outputs, outcomes and indicators that will be reported at each level. As a result, the evaluation questions were designed to address the program's outcomes to the extent possible.

2.0 Findings and Recommendations

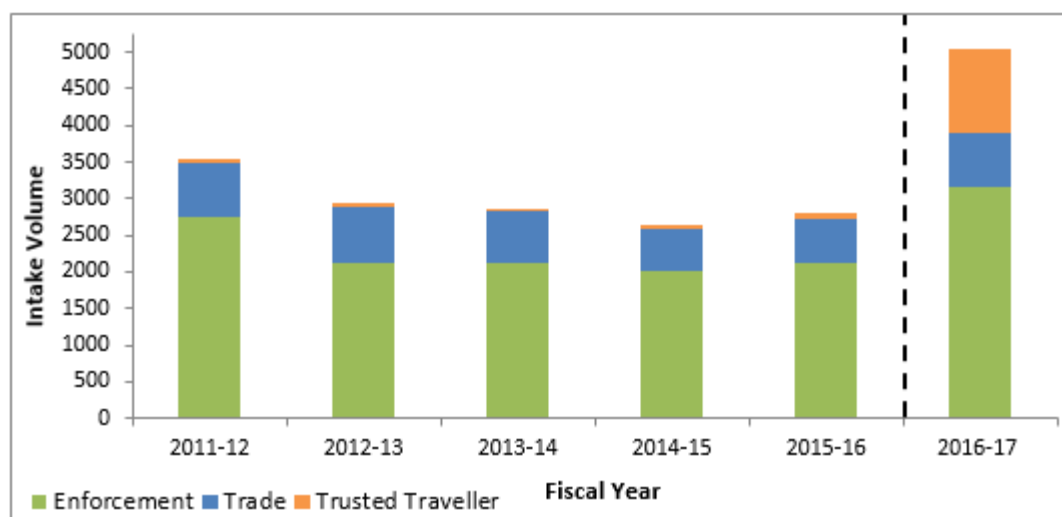
2.1 Relevance

2.1.1 Continued Need

Finding: There is a continued need for the Recourse Program as there has been a continuous intake of appeals between 2011-2012 and 2015-2016, with an increase in volume in 2016-2017.

While there was a decline in appeal intake (26% between 2011-2012 and 2015-2016), appeal submissions have been continuous. Over the five-year evaluation period, enforcement appeals have accounted for 75% of the total number of appeals, followed by trade (23%) and TTP appeals (2%). With the addition of new business lines to its mandate (i.e., reviews of TTP), the Recourse Program has experienced a significant increase in its workload in 2016-2017. As demonstrated in Exhibit 2, the total workload for 2016-2017 has surpassed last year's workload by 80%.

Exhibit 2: Appeal Intake Volumes ¹⁵, 2011-2012 to 2016-2017



Source: CBSA systems data as of March 2017.

For enforcement appeals, the review of Administrative Monetary Penalties (AMP) for Advance Commercial Information (ACI) ¹⁶ were added to Recourse's mandate in April 2016. Workload is expected to continue to increase into 2017-2018 due to the roll-out of AMPs related to the Advanced Passenger Information (API) ¹⁷ program. In addition, in 2018-2019 the roll-out of Agriculture and Agri-food AMPs (AAAMP) in highway mode will further increase Recourse's workload. With respect to trade appeals, re-determinations under the SIMA were added in April 2016.

The most significant impact on the Recourse Program workload has been the amalgamation of TTP appeal reviews into a single review process ¹⁸ in 2016-2017 (volumes of these appeals are shown in Exhibit 2). This review process is now being handled exclusively by the Recourse Program. During 2016-2017, a total of 1,148 appeals were received, an increase of over 1400% when compared to previous year (74 appeals). While the majority of TTP appeals are considered straightforward (i.e., those involving enforcement actions on TTP members), the ones associated with application rejections are more complex.

In addition to processing appeals, the Recourse Program also prepares enforcement and trade litigation cases when they go before the courts or tribunals (volumes of cases are shown in Exhibit 3). While the number of litigation cases declined between 2011-2012 and 2015-2016, they increased in 2016-2017.

Exhibit 3 – Volume/Intake of Litigations Cases, by Type, 2011-2012 to 2016-2017

Litigation / Tribunal	Fiscal Year					
	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Enforcement Appeals Before Courts (Federal and Provincial)	37	49	57	43	28	37
Enforcement Appeals Before the Canadian Agricultural Review Tribunal	31	32	17	3	33	30
Trade Appeals Before the Canadian International Trade Tribunal	61	56	57	48	37	52
Cases Before the Canadian Human Rights Commission	37	10	7	5	4	2
Cases Before the Canadian Human Rights Tribunal	0	2	0	1	0	0
TOTAL	166	149	138	100	102	121

Source: CBSA systems data as of March 2017

2.1.2. Alignment with Federal Roles and Responsibilities

Finding: The Recourse Program is aligned with federal roles and responsibilities as the CBSA is required by legislation to provide a redress mechanism for clients to appeal CBSA enforcement actions and trade decisions.

The CBSA administers more than 90 acts, regulations and international agreements on behalf of other federal departments and agencies, the provinces and the territories. The CBSA legislative mandate for enforcement actions and trade decisions is enabled by the Customs Act, the Customs Tariff, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), SIMA, and the Agriculture and Agri-Food Administrative Monetary Penalties Act (AAAMPA) and others. The Recourse Program fulfills the Agency's legislative obligation to provide traveller and trade partners with the right to request a review or appeal of a CBSA decision pertaining to Agency enforcement actions and trade decisions.

The Customs Act, [19](#) Presentation of Persons Regulations (2003), [20](#) SIMA [21](#) and the PCMLTFA [22](#) provide clients with the right to request a ministerial review of decisions pertaining to enforcement actions involving the seizure of goods, currency and or monetary instruments at the border (presidential review for trade decisions). As prescribed by the AAAMPA [23](#), Notice of Violations for unlawfully importing plant and animal products can be issued by the CBSA and clients have a right to appeal these notices by either a ministerial review or a review by the Canadian Agricultural Review Tribunal. [24](#)

Finding: Providing a redress mechanism is consistent with the practices of other federal departments and agencies that render administrative decisions, international organizations and also is consistent with the principles of Canadian administrative law.

In addition to the CBSA, other federal government organizations, that render administrative decisions affecting the rights or interests of individuals or companies, operate their own recourse mechanism. For example, the Canada Revenue Agency provides a redress mechanism to taxpayers who disagree with the Agency's assessment of their tax returns. Similarly, Employment and Social Development Canada allows insurance benefit clients to appeal decisions.

The Government of Canada, as a member of the World Customs Organization (WCO) and World Trade Organization (WTO), is obligated to provide the public with a recourse mechanism, [25](#) in accordance with the guidelines issued by these two bodies. Further, recourse mechanisms are provided by other federal government organizations that render administrative decisions affecting the rights or interests of individuals or companies.

The Recourse Program's core business lines includes enforcement, trade and TTP appeals. [26](#). The various TTPs are programs that are considered discretionary in nature. The provision of a recourse [27](#)

mechanism is consistent with the principles of Canadian administrative law.

2.1.3. Alignment with Government Priorities and CBSA Strategic Outcomes

Finding: The Recourse Program supports the Government of Canada’s commitment to trade by providing an administrative review mechanism, as stipulated in various international agreements.

Under Budget 2015, the Government of Canada (GC) committed to ensuring an effective trade remedy system, to support market conditions that would allow Canadian manufacturers to thrive and maintain a level playing field in the Canadian market. 28 The 2016 Speech from the Throne reiterated the federal government’s commitment to trade by indicating that the government will pursue beneficial trade agreements and opportunities in emerging markets. 29

The Recourse Program fulfills the GC’s commitments, as signatory to multiple free trade agreements, to provide an administrative review mechanism for trade disputes. 30 For example, the North American Free Trade Agreement (NAFTA) requires each party to establish a judicial, quasi-judicial or administrative tribunal or procedures for the purpose of prompt review and, where warranted, correction of final administrative actions. 31 Similarly, the recently-negotiated Canada European Union Comprehensive Economic and Trade Agreement (CETA) contains a review and appeal clause, which, when enacted, would require both Canada and the European Union to ensure that all decisions made regarding the import of goods can be promptly reviewed by judicial, arbitral or administrative tribunals or procedures. 32 The CBSA enforces tariff legislation on behalf of Finance Canada and upholds terms of trade agreements negotiated by Global Affairs Canada. In addition, the Recourse Program provides a review mechanism for international trade disputes as required in each of Canada’s twelve international free trade agreements. 33

The provision of an appeal and administrative review mechanism also aligns with the GC’s commitment as signatory to the Revised Arusha Declaration of the WCO concerning good governance and maintaining customs integrity. 34

The importance of these international commitments is underlined in the CBSA Agency Integrated Business Plan 2015–2018 which states that “Exponential globalization and increased commerce and migration means more attention on efforts to find joint solutions to security and trade issues, requiring international collaboration through bilateral and multilateral agreements.” 35

Finding: The Recourse Program is aligned with the CBSA’s strategic outcomes. The various appeal mechanisms handled by the Recourse Program are important elements of the CBSA’s Service Commitment and overall approach for ensuring fairness, accountability and improved client service.

The Recourse Program reflects the CBSA's Charter which emphasizes the Agency's commitment to the following service standards: respect and courtesy; bilingual service; fair application of the law; accurate information; privacy and confidentiality; and review of agency actions and decisions. ³⁶ Furthermore, the Recourse Program aligns with the following GC outcomes: to maintain "a safe and secure Canada" and to provide access to "a fair and secure marketplace." ³⁷

2.2. Achievement of Expected Outcomes

This section analyzes the extent to which the Recourse Program has achieved each of the intended outcomes in its logic model at the immediate, intermediate and ultimate outcome levels, as described in Section 1.1.

2.2.1. Access to redress mechanisms that are timely

Access

Finding: Travellers and trade partners have access to a redress mechanism which advises them of their right to appeal, where to access information and how to appeal.

In the event that a traveller or trade partner is issued an enforcement action (i.e., seizure, AMP) or a trade decision, the corresponding receipt ³⁸ or notice ³⁹ provides information on the appeals process. It provides information on the right to appeal, how to submit requests for reviews and the timeframe to request a review.

The D-Memoranda published by the CBSA on AMPs, tariff classification, valuation, origin and SIMA contain information on how to request a Ministerial/Presidential decision in the event of a dispute or the assessment of a penalty. ⁴⁰ All of this information is available publicly to both travellers and trade partners.

Information on how to appeal is available online on the CBSA website. ⁴¹ The website provides instructions on the appeal processes for the various types of reviews. For enforcement appeals, a request for review can be submitted electronically via an e-appeal or in paper format. Currently, given the volume of required documents, trade appeals can be submitted only in paper format. Interviewees in the business community stated that, for enforcement appeals, the e-appeals process works well for straightforward appeals. For more complex enforcement appeals, the preference is to submit in paper format where they can make a detailed argument. There is a desire among trade partners to submit trade appeals electronically.

Timeliness

Two service standards for the Recourse Program are measured and tracked by the CBSA: the timeliness in acknowledging appeals and the timeliness of rendering decisions. These standards and their targets are published externally in the Agency's annual Report on Priorities, and performance is reported to Canadians via the annual Departmental Performance Report. The CBSA website provides the current estimated processing time for enforcement appeals, which is updated regularly. ⁴² Internally, performance is reported to senior management on a quarterly basis as part of the Agency-wide performance summary.

Finding: The Recourse Program has consistently met its service standard target for acknowledging receipt of appeals within 10 days.

Prior to 2012, the Recourse Program had a service standard to acknowledge receipt of an appeal within 30 days. After receiving feedback from clients, ⁴³ this standard was reduced to 10 days with an internal target rate of 85%. This target has been achieved almost every year for each type of appeal (enforcement, trade and Trusted Travellers). In 2016-2017, the target was increased to 90%. This was partially in response to the high success rate for timely acknowledgment and with the introduction of e appeals which provides an automatic response (about half of enforcement appeals are submitted via e appeal).

Finding: Given improvements to its internal processes, the Recourse Program has reduced the average number of days for processing enforcement appeals, and met its target to render 75% of decisions within 180 days in 2015-2016.

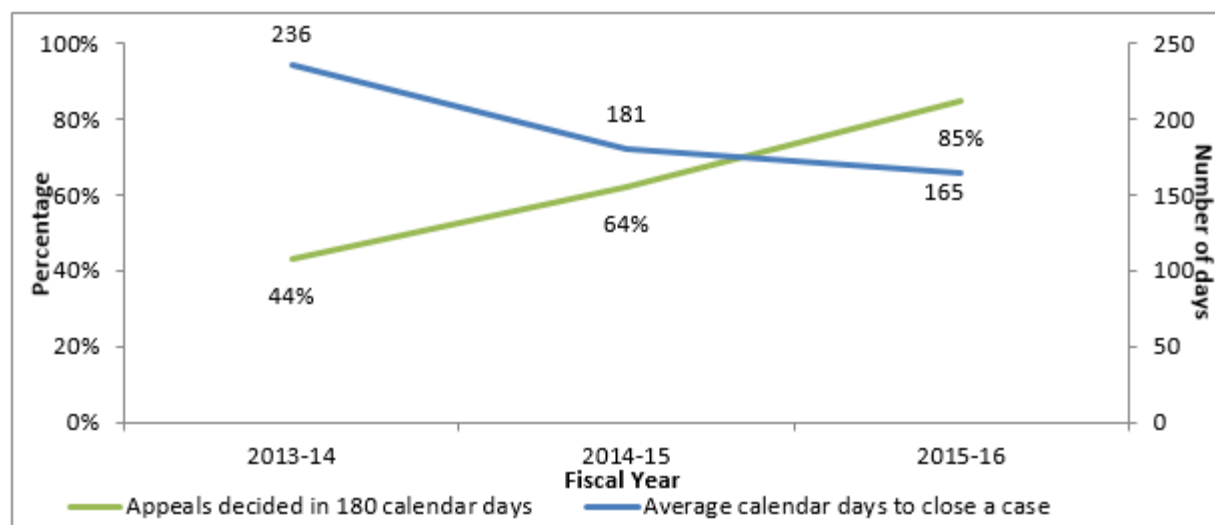
The Recourse Program strives to render a decision within 180 calendar days from the time of appeal, with an internal target of achieving the timeline 75% of the time for enforcement appeals. The Program achieved this target in 2015-2016 (as shown in Exhibit 4).

In order to improve the processing time for enforcement appeals, changes were implemented as part of the Recourse Modernization Initiative (RMI) launched in 2012. Along with the introduction of e-appeals, a triage unit was established to expedite the processing of appeals requiring minor corrections. Prior to 2012, the average processing time for enforcement appeals was 506 days. ⁴⁴ As a result of RMI changes, the Recourse Program was able to lower its average decision time for enforcement appeals by 44% (from 237 days in 2013-2014 to 165 days in 2015-2016) and met its 75% target. In 2016-2017, the target was increased to 80%. However, the Recourse Program only achieved 70% with an average processing time of 195 days in 2016-2017.

Recourse management indicated that in past years, processing time was lengthened due to the large backlog of enforcement appeals. Today, the triage unit conducts an initial review of an appeal prior to it being assigned to an adjudicator. As a result, the applicable enforcement actions are being cancelled ⁴⁵

at the outset, therefore removing them from the inventory and improving response times. The Program also publishes the current processing time online for enforcement appeals to allow appellants to estimate response time.

Exhibit 4: Performance against Timeliness Service Standard for Enforcement Appeals, 2013-2014 to 2015-2016 46



As of April 1, 2017, a new process has been implemented for enforcement appeals, where both parties (the appellant and the CBSA operational area) each will be provided with a single opportunity to provide information. This is expected to further decrease the time required to process an appeal since it will discontinue any further information submissions.

Concerns were raised by Recourse managers and staff that achieving service standard for enforcement appeal decisions is becoming increasingly challenging, and additional resources will be required to deliver on the expanded mandate.

Finding: As of 2015-2016, the Recourse Program has still not achieved the target of closing 70% of trade appeal cases within 180 calendar days.

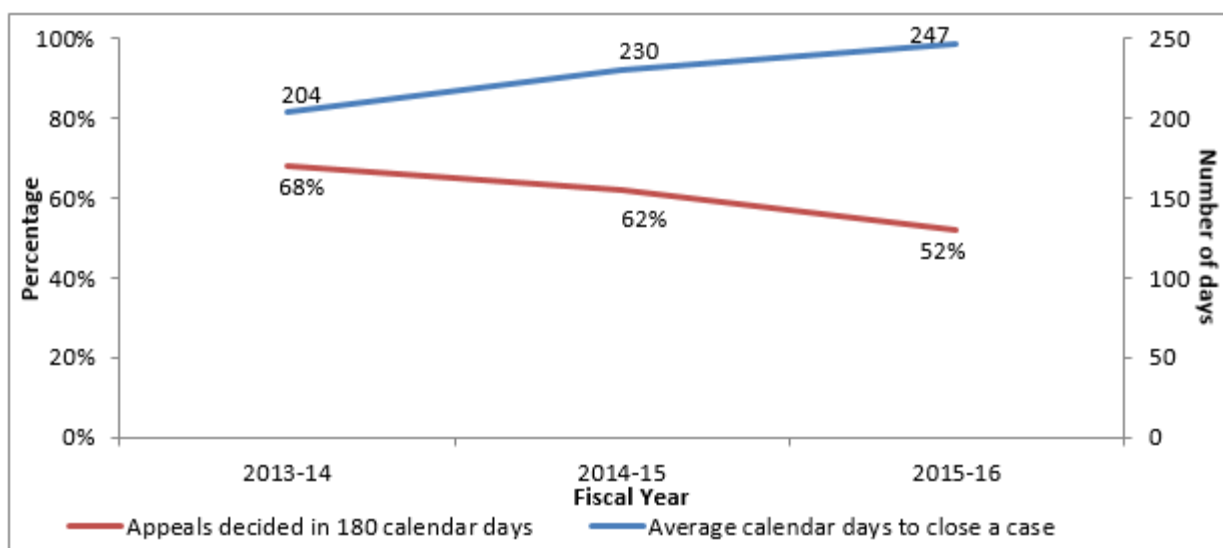
To demonstrate the processing time challenges that accompany trade appeals, the Recourse Program has been tracking two timeliness standards: calendar and workable days. Calendar days is defined as the

number of days between receipt of the appeal and the date of decision. Workable days is defined as the number of days where the file was deemed workable. The Recourse Program has been able to meet the 70% target for closing cases in 180 workable days.

The Recourse Program tracks its performance in the Agency Performance Summary using calendar days. In the Agency corporate reports (e.g. DPR) on the external website, the timeliness standard is reported as 180 days, with a footnote indicating that trade appeals are tracked using workable days. There is no other published processing timelines for trade appeals, such as the current processing time for enforcement appeals. Given that the actual 'workable time' can translate into various lengths in calendar days and the unavailability of the current processing time, it is challenging for clients to estimate the response time of trade appeals. Considering that the Recourse Program is using two different service standards for trade appeals compared to one for enforcement appeals, it would be worthwhile to consider either changing the target to calendar days or establishing a standard that better allows clients to estimate trade appeal processing time.

For trade appeals, the timeliness service standard target for calendar days has yet to be achieved and performance has been declining over the past three years. The average processing time has increased, from 204 days in 2013-2014 to 247 days in 2015-2016 (Exhibit 5). The previous evaluation noted that in 2010-2011, cases were closed in 156 calendar days. ⁴⁷ As of 2016-2017, the average number of calendar days increased to 320 with a 52% target achievement rate.

Exhibit 5: Performance against Timeliness Service Standards for Trade Appeals, 2013-2014 to 2015-2016 ⁴⁸



Source: CBSA systems data as of March 2017

The ability to meet the service standard for trade appeals is influenced by a number of factors. Cases are frequently put in abeyance, pending consultations with other parts of the Agency that are responsible for trade decisions and trade policy interpretation, or the outcome of the CITT, or Federal Court of Appeal decisions on similar cases. The total processing time can also be affected by requests for time extensions from trade partners. During these periods, the file is considered unworkable but case processing time, as measured in calendar days, continues to accumulate. The lengthy total processing time for trade appeals is of concern to the business community as they could have a significant amount of capital tied up in an appeal case awaiting a decision. 49

Trade appeals include cases involving the classification of prohibited weapons, and tariff classification, origin and value of other goods. In 2016-2017, 74% of prohibited weapons cases were completed within 90 calendar days, compared to only 16% of the other cases. Recourse managers indicated that the processing discrepancy is due to the complexity of the other cases which require more time to complete. If processing times for prohibited weapons cases were removed from the trade appeal average, the target achievement rate would be even lower. It is worthwhile to continue to monitor the processing time for different subsets of trade appeal cases to provide an accurate picture of trade appeal decisions.

Given the success of the enforcement appeal triage process in improving performance, a triage unit for trade appeals is expected to be operational in 2017-2018. The e-appeals mechanism has been considered but has not been implementable for trade appeals due to the considerable volume of documents that are submitted by clients (the large file sizes of electronic versions of these documents would be blocked by the CBSA firewall).

Within the guidelines for the Role of the Recourse Officer, it allows for a certain amount of dialogue between the policy area(s) and the Recourse Directorate on policy issues. The current process for trade appeals includes regular interaction with both Operations and Programs. While a certain level of engagement and consultation is necessary for Recourse Officers to obtain information and expert advice from appellants and trade officers, by regulating these interactions, the Recourse Program may also be able to improve its timeliness in trade appeal decision-making.

Prior to 2015-2016, the CBSA had no published service standard for TTP appeals. The number of calendar days to process a TTP appeal had been previously tracked internally for second-level reviews, but with the amalgamation of first and second-level reviews, a more in-depth examination of performance measurement will be required. TTP appeals have been included as a subset of enforcement appeals; however, this has not been clearly articulated in the published service standards. Initial feedback from adjudicators suggests that along with the significant increase in volume, the degree of complexity may increase the level of effort required to process TTP cases.

Recommendation #1: The Vice-President of Corporate Affairs should review, develop and publish service standards for trade and Trusted Traveller Programs appeal decisions, and develop a plan to meet these service standards.

2.2.2. Programs and Operations have access to Information on Appeal Decisions

The Recourse Program adopts different approaches both for the preparation of appeal decisions and the sharing of final decisions with internal stakeholders depending on the type of appeal. For enforcement appeals, following receipt and acceptance of the appeal, Operations is required to submit information related to the enforcement action. After review, Recourse may request additional information. The appellant is then sent a letter (Notice of Reasons for Action (NRA)), which provides a case summary along with a copy of the border services officer (BSO) narrative report, and an explanation of the reasons for the enforcement action and the reference to the pertinent legislation. The appellant is asked to provide any requested evidence and is given an additional 30 days to respond. A copy of the NRA is shared with operations. Following the initial request for information on the enforcement action and a copy of the NRA, generally there is no further contact until the decision is made on the appeal and a copy of the decision letter is emailed to the region. Once the decision is made, the appellant can appeal the 'appeal decision' to the federal courts. At this point, the CBSA cannot challenge the Recourse's decision.

In the case of trade appeals, after reviewing the case information, the Recourse Program will issue a preliminary decision and a copy is sent to both parties. At this point the potential 'unsuccessful party' has one last opportunity to submit information and reasoning for re-consideration of the preliminary decision. After the final decision is rendered, both sides receive a copy of the decision and rationale. Trade Operations are satisfied with the sharing of information from Recourse.

The results of litigation cases decided by the courts and administrative tribunals are circulated throughout the Agency. The litigation units prepare an outcome notification for each litigation case which is distributed to the associated region, superintendent and BSO based on original enforcement action or trade decision. This practice has been well received.

Finding: While the Recourse Program provides some access to information on appeal decisions to frontline staff, additional information could lead to improvements to operational processes and procedures.

Currently, the sharing of appeal decision information with Programs and Operations is important in order to ensure that any changes are made to policy and procedures. An internal strategic review completed in 2014 suggested that the Recourse Program should work more closely with Programs and Operations after its decisions are rendered. The report stated that this is essential if the issues and insights that come from the results of appeal decision are to be useful to the CBSA in improving operations at the border. The review suggested that a comprehensive and easily accessible database of cases and results would enable faster adjustments to policy and improvements to operational practices at the border. [50](#)

The Recourse Program tracks the outcomes of all types of decisions. This information is rolled up in the form of quarterly corporate reports such as the Agency Performance Summary and the Monthly Operational Bulletin Plus. In addition, a list of decision outcome statistics in the form of a pivot table is prepared quarterly by Recourse. While these reports provide a high-level summary of the statistics used by

senior management, the information is not yet considered useful for the front line. In addition, the outcomes of decisions are not regularly used by Programs to update procedures. There are instances where officers make enforcement decisions based on outdated information (policies, standard operating procedures, etc.).

Finding: Beyond the distribution of decision letters and statistical reports, the opportunity to seek additional information on enforcement appeal decisions is limited and differs from that of trade appeals.

While the enforcement decision letter is shared with both parties, Recourse is concerned that if additional details regarding the rationale are shared, it may amount to 'functional guidance', which would impede on its impartiality. On the other hand, a preliminary decision is shared with Trade Operations before it is finalized which includes a more detailed rationale and analysis by the trade appeals officer. Additionally, regular meetings are held with both Trade Operations and Trade Programs to discuss issues and specific cases.

On the enforcement appeal side, the Recourse Program held outreach sessions in the regions where trends and issues related to enforcement appeal decisions were discussed. These outreach sessions have been discontinued due to fiscal constraints. Instead, the Recourse Directorate relies on quantitative pivot tables (Excel files) classified by 'outcome codes' which are distributed to Programs and Operations. Quarterly meetings are held to allow the regions to seek clarification on the pivot table reports. However, some staff in the Recourse Program, Programs and Operations stated that given the outcome codes are too high-level, the pivot tables are difficult to use to draw conclusions. Also, there is no summary report that identifies issues and trends. As a result, the meetings often serve as a forum to challenge the content of the tables.

The inconsistencies in how enforcement and trade appeal decisions are communicated is contributing to dissatisfaction felt by the front line towards the enforcement appeal process. Interviewees expressed a desire to see that the results of appeals decisions, particularly appeals overturned in favour of the client, be used as a learning tool for the front line. [51](#)

Recommendation #2: The Vice-President of Corporate Affairs, in consultation with the Vice-Presidents of Operations and Programs Branches, should improve the quality of information provided to frontline operations on enforcement appeal decisions, and report on how the sharing of recourse decisions leads to policy, procedure and service delivery improvements.

The Recourse Program sends a copy of each enforcement appeal decision to the region. However, it is not consistently disseminated to the front line. In the past, there is a requirement for POE management to record a confirmation of discussion, to show that the results of the decisions were discussed between the

Superintendent and the issuing BSO. Operations has not maintained this practice consistently. This inconsistency in the sharing of information within Operations has led to additional discontent in the regions on enforcement appeals. This issue does not appear to exist between Recourse and Trade Operations in the regions, as a strong working relationship exists. Further examination of the communication process for Recourse decisions in the regions is recommended to ensure that all interested parties have timely access to the information.

Recommendation #3: The Vice-President of Operations should confirm the mechanisms to improve the sharing of information on enforcement appeal decisions with frontline operations.

2.2.3. Recourse Principles and the Review Process

While Recourse officers are required to adhere to the principles of procedural fairness ⁵² when rendering decisions, independence and transparency are as important. The independence of decision-making by the Recourse Program has been called into question by some external stakeholders given that the program is managed by the CBSA rather than by an external body. ⁵³ The stakeholders also raised concerns that the CBSA does not always follow the CITT rulings (i.e., policies are not modified in light of the CITT decisions), leading to similar future appeals. ⁵⁴

Finding: The existing policies and procedures governing trade appeal reviews need to be updated to reflect the independence of the trade appeal function.

In the 2009 Role of the Recourse Officer policy, it is outlined that Recourse officers are expected to conduct reviews in a consistent and transparent manner. Officers are also expected to make a ‘correct decision’ in that it could be supported before the courts and tribunal with a reasonable expectation of success. ⁵⁵ There is an obligation to respect the “principles of natural justice” and remain impartial in their decision-making. ⁵⁶ The responsibility to conduct an impartial reviews allows Recourse officers to question past decisions and relevant internal policies. However, the 2009 procedure precludes Recourse officers from issuing a decision that is contrary to a written policy position that senior Agency officials (including those in the Recourse Directorate) agree is to be maintained. This requirement creates challenges for Recourse officers to fulfill the requirement to both make a “correct decision” and question past decisions and relevant internal policies.

Recommendation #4: The Vice-President of Corporate Affairs should review and update the existing trade appeals process to ensure recourse principles for fair decision-making are adhered to.

Finding: While the majority (74%) of the Recourse Program decisions appealed to the courts and external tribunals have been upheld in favour of the CBSA, it is unknown whether this is indicative of decision accuracy.

Currently, there is no benchmark to assess the CBSA's performance with respect to the accuracy of decisions. In the past five years, about half (48%) of the litigation cases ⁵⁷ appealed in the courts or the tribunals were settled or withdrawn without being presented. Of the 349 cases that were presented in the courts or tribunals (CART and CITT), 251 (74%) ⁵⁸ have been upheld in favour of the CBSA ⁵⁹ indicating that the program generally is compliant with legislation, policies and procedures. The accuracy of decisions cannot be determined using this indicator, as not all Recourse decisions are appealed in the courts or tribunals (i.e., 3.9% of Recourse decisions were appealed in the courts and tribunals over the five-year period). This can be due to overall costs and the time factor (proceedings can be lengthy) associated with pursuing litigation. As a result, the overall accuracy of decisions cannot be fully assessed using the upheld rate for litigation cases.

While the average positive outcome rate is high, a performance gap exists between the courts and the tribunals (Exhibit 6). The CBSA's upheld rate with the courts is very high (93%) while both the CITT and CART's rate is somewhat lower (62% and 68% respectively). The factors contributing to the CBSA's lower success rate before the CITT and CART are unknown at this time. In 2012-2013 even though the overturn rate for CART was high, when the Agency appealed the decisions to the Federal Court, all cases were overturned in favour of the CBSA. Given the differences in success rates and complexity in analyzing case outcomes, the accuracy of the Recourse Program decisions cannot be assessed.

Exhibit 6: Decisions Outcomes Upheld in Favour of the CBSA from 2011-2012 to 2016-2017 ⁶⁰

Courts and Tribunals	FY 2011-2012	FY 2012-2013	FY 2013-2014	FY 2014-2015	FY 2015-2016	FY 2016-2017	Average
Courts (Provincial & Federal)	100%	90%	89%	92%	100%	89%	93%
CITT	59%	74%	67%	70%	48%	57%	62%
CART	82%	39%	68%	35%	96%	89%	68%

Source: CBSA systems data as of March 2017

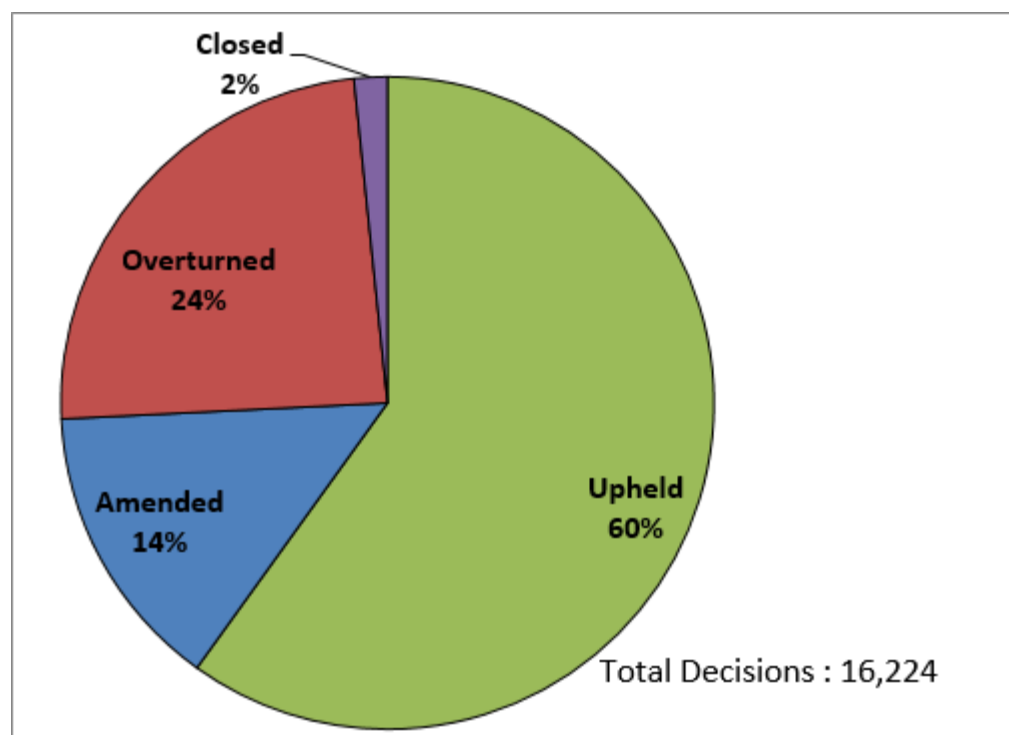
Finally, even though the Recourse Program has not implemented a systematic quality control/assurance process (e.g., an external review of appeal decisions reviewed to assess accuracy), its internal quality assurance review in 2014 found a very high level of compliance with procedures.

2.2.4. Improvements to Service and Program Delivery and Consistency in Decisions

Finding: Between 2011 and 2016, the distribution of decision outcomes has remained consistent despite fluctuations in appeal rates.

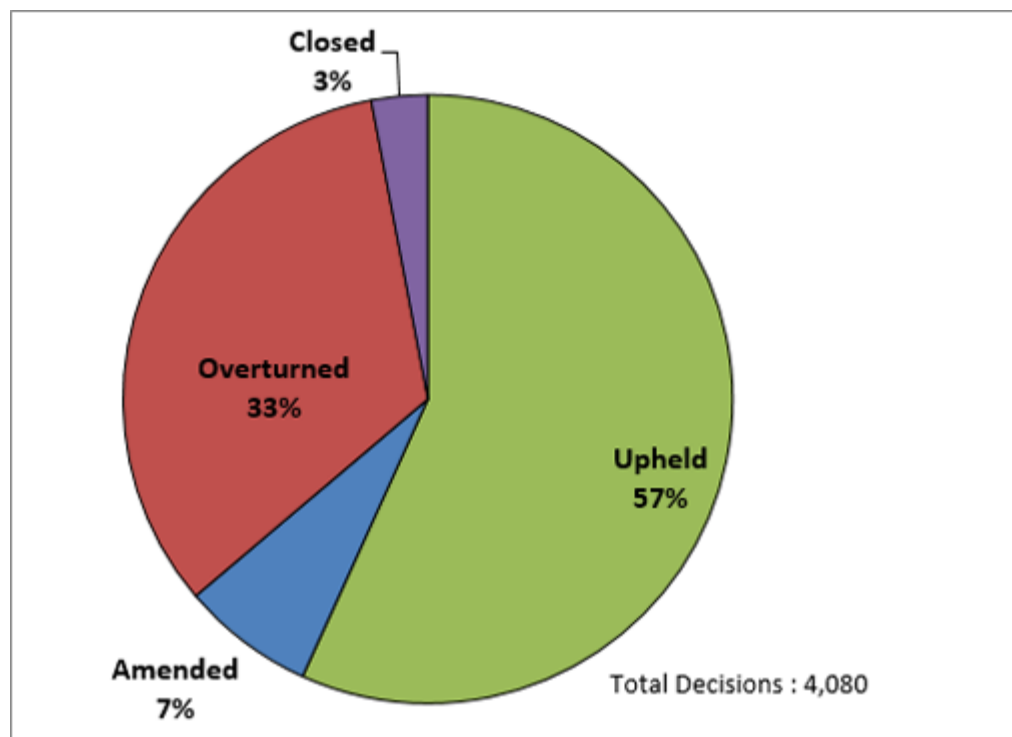
In the past five years, approximately 40% of the appeals (both enforcement and trade) to the Recourse Program were either overturned in favour of the client or amended (as shown in Exhibits 7 and 8). This outcome has not significantly changed over the past five years. It is unknown whether improvements have been made to service and program delivery, as there is insufficient data to determine whether Operations is committing the same errors when seizing or applying penalties or if the reasons for appeals are the results of amendments to Agency policies (e.g., introduction of ACI AMPs).

Exhibit 7: Enforcement Appeal Outcomes 2011-2012 to 2015-2016



Source: CBSA systems data as of March 2017

Exhibit 8: Trade Appeal Outcomes 2011-2012 to 2015-2016



Source: CBSA systems data as of March 2017

Between 2011-2012 and 2015-2016, approximately 72% of decisions for second-level TTP appeals were upheld. In 2016-2017, with the amalgamation to a single review process, approximately 76% of TTP appeal decisions were upheld.

Finding: Given that the impacts of decision outcomes are not tracked, the extent to which Recourse decisions have resulted in improvements to service and program delivery could not be assessed.

The ultimate outcome of the Recourse Program is for the results of appeal decisions and litigation to be used to improve program and service delivery within the CBSA. However, the evaluation was not able to fully assess this outcome, as the required information is not tracked as part of the program's performance measurement system. The following examples were provided by the Recourse Program where the measures were implemented to improve enforcement actions:

- The enforcement litigation unit conducted an analysis of litigation cases resulting from AAAMPs appeals, which led to amendments to the Agriculture and Agri-Food Administrative Monetary Penalties Regulations and improvements to enforcement policies and procedures.
- The Recourse Program provided feedback regarding an analysis of low-value enforcement seizures, which led to a seizure pilot to reduce the number of appeals. Under this pilot, BSOs sought concurrence with their supervisors prior to initiating a seizure.
- The Recourse Program clarified the rules pertaining to Proceeds of Crime currency seizures at POEs (pertaining to pooling of currency among occupants in a vehicle). Similarly, the program clarified the wording on the E311 declaration card used by travellers at airports concerning the rules associated with the Can\$10,000 limit.

2.3. Demonstration of Efficiency and Economy

2.3.1. Efficiency and Cost Effectiveness

The expenditures for the Recourse Program have been decreasing as a consequence of ongoing agency-wide resource reductions (as shown in Exhibit 9). Since 2013-2014, direct program spending has been reduced by 10%.

Exhibit 9: Expenditures for the Recourse Program, 2013-2014 to 2015-2016

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Fiscal Year ⁶²	Planned	Actual
2013-2014	\$10,047,081	\$9,728,891
2014-2015	\$9,357,404	\$9,286,125
2015-2016	\$9,091,185	\$8,848,227

Source: CBSA systems data as of March 2017

Finding: Although program expenditures decreased over the past three years, the average cost per decision increased.

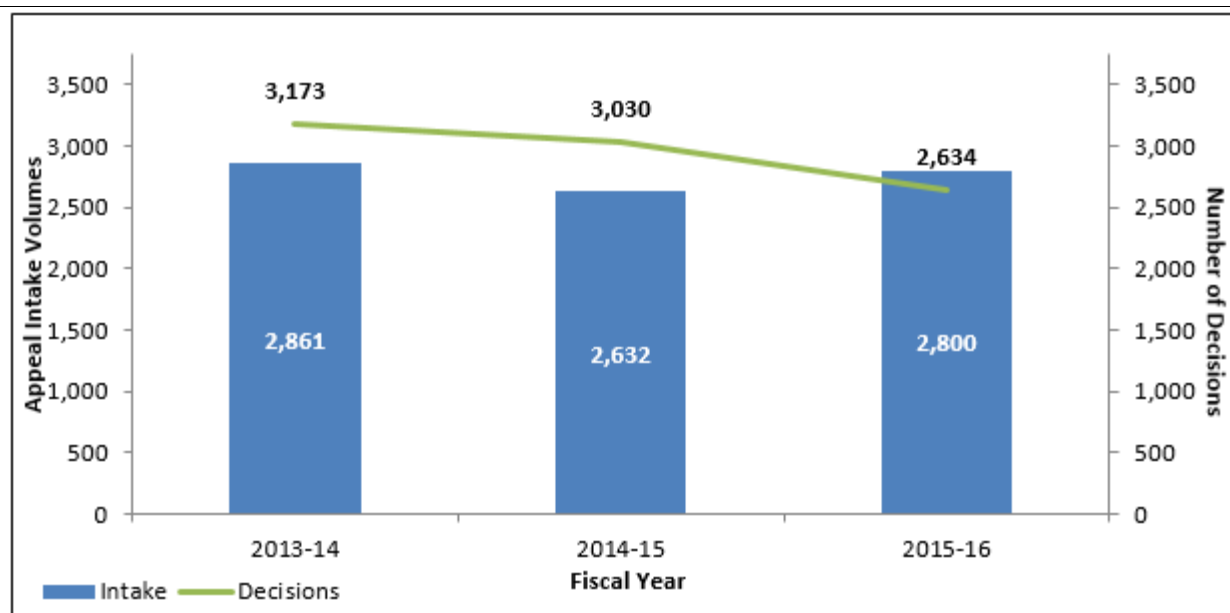
The cost per decision has been calculated as a simple indicator of efficiency (shown in Exhibit 10). The nature of decisions included in this section mirror those reported in the APS (i.e., enforcement, trade and TTP decisions). While the Recourse Program outputs include other types of decisions, ⁶³ they have not been included in the calculations below. Between 2013-2014 and 2015-2016, appeal intake (number of appeals received) decreased by 2%. For the same period, overall program expenditures decreased by 9%. Given the reduction in expenditures (i.e., resources) and incoming caseload, it was expected that the number of decisions would have decreased by a proportional percentage. However, the number of decisions did decrease but at a higher rate of 17% (Exhibit 11). This higher rate could suggest that there are other factors influencing the production of decisions other than a decrease in inputs (expenditures). As a result of the significant decrease in decisions, the cost per decision increased by 10% between 2013-2014 and 2015-2016. Based on this data, it is unknown whether the increase in cost-per-decision was due to a decrease in productivity or an increase in the complexity of appeals received (i.e., which would increase the average level of effort required). With the addition of new business lines in 2016-2017, it is expected that the cost per decision will be affected.

Exhibit 10: Cost per Decision for the Recourse Program, 2013-2014 to 2015-2016

Fiscal Year	Total expenditures	Total appeals	Total decisions	Cost per decision
2013-2014	\$9,728,890	2,861	3,173	\$3,066
2014-2015	\$9,286,125	2,632	3,030	\$3,065
2015-2016	\$8,848,227	2,800	2,634	\$3,359

Source: CBSA systems data as of March 2017

Exhibit 11: Workload for the Recourse Program, 2013-14 to 2015-16



Source: CBSA systems data as of March 2017

To determine the ideal resource level for decisions, the Recourse Program's policy unit developed a resource allocation model (RAM). While the RAM has separate models for enforcement and trade appeals, it does not take into account the complexity variation between cases within the two types of appeals. Productivity targets are set for both managers and staff, and are monitored, tracked and reported on in individual performance management agreements. Management has indicated that there are currently variations in staff productivity.

Finding: Although appeal intake and outputs declined over the five-year evaluation period, the Recourse Program currently is experiencing increased workload pressures due to its expanded mandate. Workload is expected to continue to increase into 2017-2018.

The Recourse Program took on additional responsibilities starting in 2016-2017 due to the decline in intake (appeals). As discussed in section 2.1.1, with these new business lines, the workload for 2016-2017 has already surpassed last year's workload by 80%. With the exception of SIMA appeals [64](#), the Recourse Program's mandate was expanded without supplementary resources. This could prove problematic as workload is expected to increase further as more business lines will be added in 2017-2018 with AMPs related to Advanced Passenger Information (API) to be introduced, and in 2018-2019 with the full roll-out of AAAMPs at land borders.

The Recourse Program developed a RAM estimating the amount of resources required to handle the anticipated increase in enforcement appeals. While the program has been allocated a sufficient number of positions, some of these positions have not been staffed due to agency-wide resource constraints. The

Recourse policy unit estimates that if all adjudicator positions (a total of 19 FTEs) were resourced and targeted productivity was achieved, the program would be able to handle the anticipated workload volume increases for enforcement appeals (Exhibit 12).

Exhibit 12: Ideal Productivity for Enforcement Appeals

Resources	Productivity	Number of Appeals	Anticipated Workload
19 FTEs	16-18 appeals/month	3,648/year	Approximately 3,000

Source: The Recourse Program RAM

While productivity targets are set for staff, managers reported wide variations in productivity from person to person. The overall view is that the enforcement appeals process is not working as efficiently as it could partly because, managers are working on appeals files, which reduces the time available to coach staff.

A Quality Assessment Enforcement Appeals Report prepared internally (2014) noted that Recourse resource requirements are often overlooked in front-end program design and development, and are viewed as a lower priority than front line program functions. The effect on workload and the costs to the Recourse Program are not always considered in the implementation of new CBSA initiatives (i.e., Recourse resourcing needs are not considered in costing for TBS submissions). [65](#)

Finding: Due to the impending wave of upcoming retirements, the Recourse Program could potentially experience a gap in appeals expertise.

The Recourse Program is also facing other human resources issues as there is a potential wave of upcoming retirements. Of the 104.75 FTEs (February 2017), 11 are eligible to retire with full pension by "March 31, 2017, and another 22 are eligible to retire without penalty by the same date. These retirements constitute 31% of the program's workforce. Looking ahead to 2020-2021, nearly 40% of the current workforce will be eligible to retire.

There is a pressing need to recruit and train new managers, supervisors and adjudicators in order to maintain capacity and ensure knowledge transfer. The Agency's recruiting process could be lengthy, which could lead to lack of opportunity to complete knowledge transfer and training.

2.3.2. Other Considerations

Enhanced Complaint Mechanism

In January 2011, the Agency launched the ECM to provide clients with a more accessible means to address written service-related feedback in the form of compliments, comments and complaints. ⁶⁶ The Recourse Directorate is responsible for monitoring and reporting on ECM feedback and manages a centralized inbox. While the ECM is considered an output of the program, the Recourse Program's role is solely administrative. As the majority of the complaints (97%) ⁶⁷ relate to traveller experience or operational issues at the border, Operations is the office of primary interest (OPI) tasked with preparing the majority of the responses. The Recourse Program currently has no control over the performance of the ECM (e.g. response rate or timeliness) or in meeting the Agency-imposed service standards (refer to [Appendix C](#) for additional information). The original intent was for Recourse to provide a second-level review of complaints for clients whenever they were not satisfied with the first complaint response from the OPI. Due to resourcing challenges, this function was never implemented. Internal key informants suggested that the ECM might be better situated outside of Recourse, since most of the complaints relate to service delivery and consistency in operational policy and practice, rather than administrative reviews.

Recommendation #5: The Vice-President of Corporate Affairs, in consultation with the Vice-President of Operations, should review and update the Enhanced Complaint Mechanism to improve its effectiveness in achieving its intended objectives.

Litigation

A concern raised by a few internal and external key informants is that the Recourse litigation units may not be sufficiently independent from the appeals process. On the one hand, the Recourse Directorate maintains independence and neutrality in its decision-making processes, while on the other hand the litigation units support the DOJ litigators in making the CBSA's case in front of the federal courts and tribunals. As other litigation units exist within the CBSA (i.e., immigration and refugee cases, ATIP, official languages, labour relations, etc.), the Agency could consider moving the Recourse litigation units outside of the Directorate. While this could ensure consistency and quality of litigation, it is unknown whether centralization would increase efficiency, as each program area requires specialized technical and legal expertise. This consideration would require further study.

Appendix A: Management Response

Overall Management Response

The Recourse Program is responsible for various types of reviews resulting in a number of different processes. In an effort to find efficiencies and streamline within Enforcement Appeals, Recourse undertook a modernization exercise in recent years which largely contributed to the advancement of the program. As such, it appears that minimal effort is required to address gaps in this area. However, in the past year, Recourse commenced the Trade Appeals Process Review in an effort to

streamline and find greater efficiencies. The recommendations within the evaluation report are consistent with the review, and as such, Recourse will continue with the review efforts, consultations with key stakeholders, the establishment of revised service standards, and the identification of further improvements aimed at achieving optimal program delivery.

The Enhanced Complaint Mechanism (ECM) has been the subject of recent discussion both within and outside of Recourse. The recommendation within the report will provide an opportunity to consider the intent of the ECM, whether it is meeting the objectives of such a mechanism, and consider options for the future of this program.

Recommendation 1

The Vice-President of Corporate Affairs should review and develop service standards for trade and Trusted Traveller Programs appeal decisions, and develop a plan to meet these service standards.

Management Response

The review and development of service standards for trade appeals is currently underway as part of the Trade Appeals Process Review. Consultations with external stakeholders are ongoing, and options will be presented to senior management in Q1, 2017-2018.

Effective April 1, 2016, Trusted Traveller Program appeal decisions are included in the current enforcement appeals service standard published on the external website (180 calendar days, 80% of the time). Recourse will update the service standard description to ensure that it clearly articulates that Trusted Traveller Program appeal decisions are included in the Enforcement Appeals service standards.

Management Action Plan

Completion Date

1.1 Elaborate on options for Trade Appeals service standard.

May 2017

1.2 Undertake consultations with internal/external stakeholders.

July 2017

1.3 Implement new standards.

March 2018

Recommendation 2

The Vice-President of Corporate Affairs, in consultation with the Vice-Presidents of Operations and Programs Branches, should improve the quality of information provided to frontline operations on enforcement appeal decisions, and report on how the sharing of recourse decisions leads to policy, procedure and service delivery improvements.

Management Response

Recourse will review the existing content of information provided to frontline operations and leverage

existing networks by consulting within Programs and Operations Branches to identify the information that is required by frontline operations in order to improve the reporting on how Recourse decisions lead to policy, procedure and service delivery improvements.

Management Action Plan	Completion Date
2.1 Review of existing content.	September 2017
2.2 Consultations with Operations and Programs Branches.	December 2017
2.3 Implement improved feedback process for enforcement appeal decisions.	March 2018
2.4 Finalize monitoring plan with Programs and Operations.	March 2018

Recommendation 3

The Vice-President of Operations should confirm mechanisms to improve the sharing of information on enforcement appeal decisions with frontline operations.

Management Response	
The Operations Branch agrees with this recommendation and will review the current methodology to ensure that the information to the frontline operations is timely, accurate, and complete.	
Management Action Plan	Completion Date
3.1 Review the current communication methodology of enforcement appeal decisions to frontline operations to determine whether updates are required with a view to ensure that it is efficient and effective.	June 2017
3.2 Communicate any updates to the communications process to the regions by using Operational Bulletins or Shift Briefings, as required.	July 2017
3.3 Ensure that frontline concerns regarding recourse appeal decisions are addressed during the quarterly joint Operations Branch and Recourse Directorate meetings.	November 2017

Recommendation 4

The Vice-President of Corporate Affairs should review and update the existing Trade Appeals process to ensure that recourse principles of fair decision-making are adhered to.

Management Response
The Trade Appeals Process Review that is currently underway will address this recommendation by evaluating the existing processes in an effort to streamline, identify efficiencies and ensure that the

program respects legislative requirements, jurisprudence and the guiding principles.

The main constraint will be to implement a successful plan without incurring any additional operating costs.

Management Action Plan	Completion Date
4.1 Review current policies and procedures to ensure that the appeal processes are in accordance with Recourse principles of fair decision making.	January 2018
4.2 Prepare recommendations and seek approval for process improvements.	April 2018
4.3 Develop plan to implement Senior Management decision.	June 2018

Recommendation 5

The Vice-President of Corporate Affairs, in consultation with the Vice-President of Operations should review and update the Enhanced Complaint Mechanism to improve its effectiveness in achieving its intended objectives.

Management Response	
In consultation with Operations, Recourse will conduct a review of the Enhanced Complaint Mechanism (ECM) process, objectives and outcomes, and provide recommendations to Senior Management to improve its effectiveness and efficiency.	
Management Action Plan	Completion Date
5.1 Initiate consultations with Operations to review and confirm ECM objectives.	September 2017
5.2 Proposal for ECM process improvements with options and recommendation for Senior Management completed.	December 2017
5.3 Present proposal to Senior Management for approval.	March 2018

Appendix B: Program Description

Organization

The Recourse Directorate has three Divisions: Recourse Program Management, Enforcement Appeals and

Litigation, and Trade Appeals and Litigation. The roles of these divisions are outlined below:

Recourse Program Management Division (RPMD)

The RPMD has a Monitoring, Systems and Coordination Unit and a Recourse Policy Unit.

The Division provides strategic policy advice, guidance and support for appeals, develops standard operating procedures, guidelines and training materials, and manages the ECM. The division also reports and monitors on program performance and provides input into Agency-wide planning activities, strategies and initiatives.

Enforcement Appeals and Litigation Division (EALD)

The EALD comprises four units including two that address enforcement appeals, one dedicated to enforcement litigation, and another that provides triage and operational support.

The Enforcement Appeals Units (A and B) review seizures, ascertained forfeitures, third party and request for extension applications, or penalties issued under the Customs Act, the Customs Tariff, the Proceeds of Crime, Money Laundering and Terrorist Financing Act (PCMLTFA), and the Agriculture and Agri-Food Administrative Monetary Penalties Act (AAAMPS); and also review Penalty Reinvestment Agreements applications and Late Accounting Penalties. Adjudicators review the documentation and prepare a Notice of Reasons for Action letter, case synopsis and Reasons for Decision.

EALD also handles requests for reviews related to the TTP membership denials, suspensions and revocations.

The Enforcement Litigation Unit works with the DOJ to support CBSA cases before the courts. It also defends the Agency's cases before CART, and manages external human rights complaints filed with the Canadian Human Rights Commission (CHRC) pursuant to the Canadian Human Rights Act and which are heard by the Canadian Human Rights Tribunal (CHRT). The unit also monitors, reports, and provides feedback on national trends related to enforcement litigation.

The Triage and Operational Support Unit provides a triage and support function for the processing of appeals, litigation and complaints.

Trade Appeals and Litigation Division (TALD)

TALD consists of four units, a Trade Litigation Unit at NHQ and three regional Trade Appeal Units located in Toronto, Hamilton and Montreal.

TALD manages and works with the DOJ to develop the CBSA position on litigation and judicial review cases before the CITT and the courts. This division is responsible for the review of trade decisions pertaining to tariff classification, value for duty, origin, advance rulings, tax status, prohibited weapons and the marking of goods. TALD also monitors, reports and provides feedback on national trends related to trade decisions.

Clients

The Recourse Program serves two main client groups: trade partners and travellers.

Trade partners include customs brokers, importers, exporters, warehouse operators, and carriers (i.e., airlines, freight forwarders, railway, marine and trucking companies) who have requested a review or appeal of a trade decision or penalty levied by the CBSA (e.g., inadmissibility of imported goods, origin, tariff classification, value for duty, marking/labeling). The Recourse Program consults with commercial clients through the CBSA's Border Commercial Consultative Committee (BCCC). 68

Internal Stakeholders

CBSA stakeholders include areas that develop, administer, or deliver enforcement or trade programs that provide review or appeal provisions under the Customs Act and other legislation. Throughout the course of the investigation of a review or appeal, the Recourse Directorate may consult with both Operations Branch and Programs Branch to obtain subject-matter expertise regarding the application and/or interpretation of policies, procedures, or laws.

Operations Branch and the Regions

The Recourse Directorate works with different areas of the Operations Branch on questions related to the application and/or interpretation of a policy, procedure, or law. Within the Operations Branch, Recourse Directorate stakeholders include:

- **Traveller and Commercial Operations Divisions** – Provide advice and support to the regions and senior management on the delivery of programs and resolution of problems at the field level, provide input and support for the successful implementation or enhancement of programs, policies, procedures, or systems, and ensure an operational perspective is reflected in plans, goals and funding allocations. The Divisions also participate in consultative and advisory groups and provide reports or supporting documentation pertaining to reviews, appeals and complaints received by the Recourse Directorate.
- **CBSA Regions and ports of entry (POE)** – Regional and POE staff, including border services officers (BSO), superintendents, chiefs and regional program staff, under the direction of regional director generals, are responsible for the effective delivery of a variety of programs and services for people and goods. The regions and POEs provide the Recourse Directorate with supporting documentation and reports related to enforcement appeals and trade decisions and respond to ECM inquiries.

Programs Branch

The Programs Branch is responsible for the policy and procedures for all CBSA programs delivered by the regions. The primary Recourse stakeholders involve the following program areas:

- **Traveller Program Directorate, Commercial Program Directorate and the Trade and Anti-Dumping Program Directorate** – Support the Recourse Directorate by developing, maintaining and providing functional guidance on policies and procedures to facilitate the consistent application of, and compliance to, border legislation and policy.
- **Traveller Program Directorate** – Develops, manages and improves integrated national programs that facilitate the passage of travellers into Canada through policy development, outreach and engagement, business systems integration, performance monitoring, and implementing traveller

transformational initiatives.

- **Commercial Program Directorate** – Develops, maintains, and administers commercial policies, procedures, regulations, and legislation related to the movement of commercial goods into, and out of Canada. The directorate reports on national program performance and compliance and is responsible for future commercial transformation and modernization initiatives.
- **Trade and Anti-Dumping Program Directorate** – Works to ensure that all trade partners understand and respect Canadian trade laws and international agreements relating to the movement of commercial goods across Canada’s border. The directorate supports the competitiveness of Canadian business; collects duties and taxes owing on imported goods, and ensure integrity of Canadian trade data.

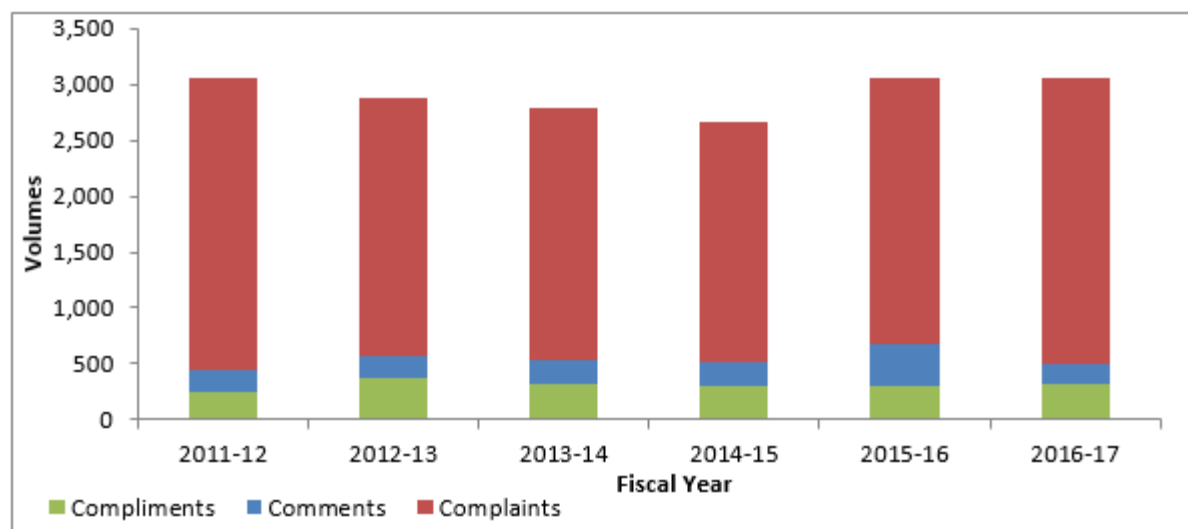
Legal Services

The Recourse Directorate, whether during ministerial reviews, litigation, or other external recourse processes, sometimes requires the use of and advice from Legal Services, often on short notice and within tight timelines imposed by tribunals or the courts.

Appendix C: Enhanced Complaint Mechanism

The ECM is an electronic feedback for compliments, comments and complaints. The volumes for the ECM are shown in Exhibit C-1, of which 81% are complaints. The amount of feedback received via the ECM has been consistent over the past six years demonstrating an ongoing need for the mechanism.

Exhibit C1 - ECM Volumes, 2011-2012 to 2016-2017

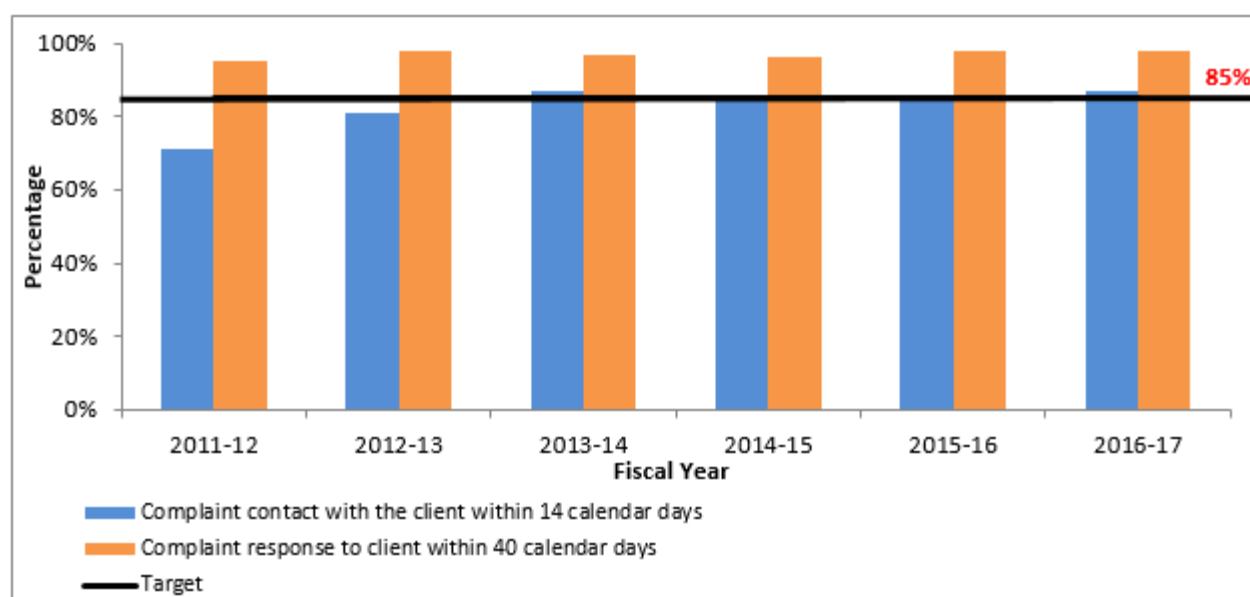


Source: CBSA systems data as of March 2017

The CBSA is currently under no legislated requirement to respond to complaints submitted via ECM. However, the ECM does align with best practices outlined in the World Customs Organization Integrity Development Guide ⁶⁹, which recommends the establishment of a compliment and complaint tracking system to support prompt responses to client feedback.

As shown in Exhibit C-2, the Agency has implemented two ECM service standards. The first is to for initiating contact with the client within 14 calendar days from the receipt of the complaint. In 2016-2017, initial contact was made with the client within 14 calendar days 87% of time, exceeding the target of 85%. The second service standard is to provide a final response to the client within 40 calendar days. In 2016-2017, over 98% of complaints were responded to within the target of 40 calendar days, compared to the target of 85%.

Exhibit C2 - Performance against Timeliness Service Standard for the ECM, 2011-2012 to 2015-2016



Source: CBSA systems data as of March 2017

Some key informants suggested that the number of complaints may be over reported (i.e., an unhappy traveller will often submit a complaint related to the same incident through multiple channels, such as the Ministerial correspondence process and via the ECM). Each of these 'complaints' then requires a separate response regardless of whether it pertains to the same incident. There appears to be no mechanism through which to triage complaints in order to verify that they were not submitted through multiple

channels. Given that complaints and ministerial correspondence can be responded to by different Directorates, there is the potential for differing and conflicting responses being provided to clients. Finally, the ECM has no second-level review that provides clients with a mechanism to seek further remedy.

Appendix D – Evaluation Methodology

The CBSA Program Evaluation Division (PED) conducted this evaluation between June 2016 and April 2017. The evaluation team consisted of a mix of PED managers and staff and outside evaluation consultants. The evaluation adopted a multi-method research approach to generate multiple lines of evidence on each of the evaluation issues and questions. Data and findings were recorded in an evidence matrix, and only findings that could be triangulated with multiple lines of evidence were included in the final evaluation report. The various research methods are described below.

Review of Documents and Literature

The evaluation team reviewed documents provided by the Recourse Directorate and other CBSA areas in order to understand the design, delivery and management of the Recourse Program. This review included legislation, regulations, policies, procedures, D-memoranda, training materials, Memoranda of Understanding, protocols, risk profiles, quarterly performance reports and departmental performance reports. The evaluation team also reviewed literature and annual reports produced by other departments and agencies to compare the Recourse Program with other redress mechanisms.

Analysis of Operational, Performance and Financial Data

The evaluation team analyzed Recourse Program operational, performance and financial data for fiscal years 2012-2013 through to 2015-2016 to assess the effectiveness and efficiency of the Recourse Program in meeting service standards, performance targets and expected outcomes. During the course of the evaluation, the scope was expanded to cover 2016-2017, due to the additional business lines that was added to the mandate of the Recourse Program. Other data sources included the Recourse Program's performance measurement data, which is part of the agency-wide performance measurement system.

Key Informant Interviews

The evaluation team conducted interviews with a total of 71 internal and six external stakeholders. 70 Within the CBSA, interviews were conducted with those responsible for or involved in the delivery of the Recourse Program, and managers and staff from the Programs Branch and Operations Branch located at the CBSA NHQ and in the regions. External stakeholders included members of the Border Commercial Consultative Committee (BCCC) which represents the interests of major importers, customs brokers, shippers and the legal community.

Field Research

The evaluation conducted field research in the GTA and Quebec regions where the regional Recourse divisions to gather in-depth information of how the program is designed, delivered in order to assess the extent to which it is achieving its outcomes.

Footnotes

- 1 Trade decisions can result in adjustments, refunds in the duties and taxes owed and are made on: anti-dumping or countervailing duties, tariff classification, origin, value for duty or the marking of goods. Enforcement actions, including penalties, result from various situations, such as: not declaring all imported goods, not declaring the import or export of large sums of money, not presenting food, plant or animal products that are controlled or require permits, or not accounting for commercial goods within the prescribed time limits or in the prescribed manner. An importer can request a review for late accounting, penalties or late transaction payment interest charges. There are also reviews of rejections, suspension or cancellation from a Trusted Traveller Program.
- 2 The Proceeds of Crime (Money laundering) and Terrorist Financing Act (section 25), Special Import Measures Act, and the Agriculture and Agri-food Monetary Penalties Act (sections 12-14).
- 3 Canada has 12 FTAs in force and 3 FTAs concluded, each with specific guidelines for dispute settlement that may arise through the interpretation and application of the agreements.
<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/index.aspx>.
- 4 The CBSA can impose Administrative Monetary Penalties (AMPs) or Agri-Food Administrative Monetary Penalties (AAAMPs) on travellers or commercial entities.
- 5 Relevant acts include the Customs Act, (s. 60-70, s. 129-135), the Proceeds of Crime, (Money Laundering) and Terrorist Financing Act (s. 24-39), Presentations of Persons (2003) regulations (s. 23), Special Import Measures Act and the Agriculture and Agri-food Monetary Penalties Act (s. 12-14).
- 6 Appeals related to enforcement actions and Trusted Traveller program decisions can be submitted online (e-appeals). Appeals related to trade decisions must be submitted by mail.
- 7 D11-6-7: Importers' Dispute Resolution Process for Origin, Tariff Classification, and Value for Duty of Imported Goods lists several forms for submitting requests (i.e., B226, B236, B2 or B2G, or a letter, depending on the type of request).
- 8 For the Agriculture and Agri-Food Administrative Monetary Penalties Regulations, appeals must be filed within 30 days from when the notice is served. Under section 129.1 or 60.1(1) of the Customs Act, extensions may be granted if the applicant demonstrates that the appeal could not have been submitted within the time provided. There is no extension of time provision for Trusted Traveller Programs.
- 9 The NEXUS and CANPASS programs streamline the border clearance process for low-risk, pre-approved travellers. The trusted trade programs include Free and Secure Trade (FAST) and the Commercial Driver Registration Program (CDRP).

- [10](#) Source: Comptrollership data provided by the Recourse Program
- [11](#) Decisions include all of decisions reviewed by Recourse including 3rd party claims, requests for extension of time and Trusted Traveller.
- [12](#) The logic model used was the VP-approved version as of June 2016.
- [13](#) Source: Canada Border Services Agency, Recourse Program Evaluation Study: Final Report, April 19, 2012. Accessed on March 16, 2017. Retrieved from <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/ae-ve/2012/rpe-vpr-eng.html>.
- [14](#) Ascertained forfeitures occur when an officer believes on reasonable grounds that a person has contravened the Customs Act, but the goods or conveyance cannot be found or seizing the goods or conveyance would be impracticable. Source: Justice Canada. Customs Act. Accessed on March 9, 2017. Retrieved from: <http://laws-lois.justice.gc.ca/eng/acts/C-52.6/page-32.html>
- [15](#) Appeals are broken down by type: enforcement, trade and appeals related to TTPs. For 2016-2017 both the new business lines including 1st-level TTP reviews and SIMA appeals have been included.
- [16](#) ACI pre-arrival electronic information that allow the CBSA to identify health, safety and security threats related to commercial goods before they arrive in Canada.
- [17](#) API will provide pre-arrival electronic information on travellers.
- [18](#) Prior to 2016, the TTP enrollment centres handled first-level reviews of TTP appeals. The Recourse Program was responsible for second-level reviews that were unable to be resolved during the first-level review.
- [19](#) For the importation of goods, Sections 60 to 67 of the Customs Act provides the right to request a redetermination of the origin, tariff classification, value for duty or marking of imported goods. Sections 129 to 135 and 138 to 139 of the Act provide the right to request a decision of the Minister concerning the seizure or forfeiture of goods or conveyances.
- [20](#) Section 23 of the Customs Act allows the applicant to request a review of their application in the event that it is denied, cancelled or suspended.
- [21](#) Sections 56 to 60 allow for a re-determination of by the President.
- [22](#) The right to appeal currency seizures falls under sections 25 to 35 of the Proceeds of Crime, Money Laundering and Terrorist Financing Act (PCMLTFA).

- 23 A person who is served with a notice of violation of the Agriculture and Agri-Food Administrative Monetary Penalties Act (AAAMPA) may request a review by the Minister of the facts of the violation under sections 8 to 14 of the act.
- 24 Source: CBSA, Acts and Regulations. March 2017. Retrieved from: <http://www.cbsa-asfc.gc.ca/agency-agence/actreg-loireg/legislation-eng.html>
- 25 Source: The Revised Arusha Declaration. April 6, 2017. Retrieved from: http://www.wcoomd.org/~media/wco/public/global/pdf/about-us/legal-instruments/declarations/revised_arusha_declaration_en.pdf?la=en
- 26 In 2016-2017, first-level and second-level reviews were combined and the single review process became the responsibility of the Recourse Program. Second-level reviews of appeals pertain to the denial, cancellation and suspension of Trusted Travellers memberships (NEXUS, CANPASS, FAST and CDRP) were added in 2010.
- 27 Administrative law is the legal principles relating to the government's powers and organization and the legal control of the government's actions and decisions. Source: Government of Canada, 2014. Citizenship: Administrative Law. Accessed on March 16, 2017. Retrieved from: http://www.cic.gc.ca/english/resources/tools/cit/admin/decision/overview.asp?_ga=1.249326287.952398649.1482268422.
- 28 Source: Government of Canada. Strong Leadership: A Balanced Budget, Low Tax Plan for Jobs, Growth and Security. April 21, 2015. Retrieved from <http://www.budget.gc.ca/2015/home-accueil-eng.html>.
- 29 Source: Government of Canada. Making Change Happen: Speech from the Throne 2016. Retrieved from <http://www.speech.gc.ca/en/content/making-real-change-happen>.
- 30 As of March 2017 Canada is signatory to 11 Free-Trade Agreements that are in force. Another three, including CETA, have been concluded, while several more are in negotiation. Source: Global Affairs Canada.
- 31 Source: Global Affairs Canada, North American Free Trade Agreement, 2017. Accessed on April 7, 2017. Accessed from: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/nafta-alena/fta-ale/background-contexte.aspx?lang=eng>.
- 32 Source: Global Affairs Canada, Canada-European Union Comprehensive Economic and Trade Agreement, section 6: Customs and Trade Facilitation. Accessed on April 7, 2017. Retrieved from: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/06.aspx?lang=eng>.
- 33 Source: Government of Canada. Trade and Investment Agreements. Accessed on March 7,

2017. Retrieved from: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fta-ale.aspx?lang=eng>.

[34](#) Source: The Revised Arusha Declaration. Accessed on April 6, 2017. Retrieved from: http://www.wcoomd.org/~media/wco/public/global/pdf/about-us/legal-instruments/declarations/revised_arusha_declaration_en.pdf?la=en.

[35](#) Source: Internal CBSA documentation.

[36](#) Source: Internal CBSA documentation.

[37](#) Source: CBSA, 2016-17 Part III - Report on Plans and Priorities, p. 16. Retrieved from <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/rpp/2016-2017/report-rapport-eng.html>.

[38](#) Source: Internal CBSA documentation.

[39](#) Source: Internal CBSA documentation.

[40](#) Source: CBSA. Administrative Monetary Penalty System: Memorandum D22-1-1, D11-6-7, D11-6-9. Accessed on March 13, 2017. Retrieved from: <http://www.cbsa-asfc.gc.ca/publications/dm-md/d22/d22-1-1-eng.html>.

[41](#) Source: CBSA. Appeals/Reviews. Accessed on March 13, 2017. Retrieved from: <http://www.cbsa-asfc.gc.ca/recourse-recours/menu-eng.html>.

[42](#) Ibid.

[43](#) Source: Recourse Program Evaluation Study, 2012, p. 14. Accessed on March 7, 2017. Retrieved from: <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/ae-ve/2012/rpe-vpr-eng.html>.

[44](#) Source: CBSA, Recourse Program Evaluation Study, p. 15. Accessed on March 7, 2017. Retrieved from: <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/ae-ve/2012/rpe-vpr-eng.html>.

[45](#) Cancelled appeals include those submitted by clients after the 90-day submission period or keying errors by the CBSA.

[46](#) This performance measure was not tracked prior to 2013.

[47](#) Source: CBSA, Recourse Program Evaluation Study, p. 15. Retrieved from: <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/ae-ve/2012/rpe-vpr-eng.html>.

- [48](#) This performance measure was not tracked prior to 2013.
- [49](#) Based on discussions with BCCC members.
- [50](#) Source: Internal CBSA documentation.
- [51](#) Source: Key informant interviews with Regional Operations, 2016.
- [52](#) Procedural fairness is considered violated when the decision maker is biased or their conduct or statements raise a reasonable apprehension of bias. Source: Government of Canada, 2014. Citizenship: Natural Justice and Procedural Fairness. Accessed on March 16, 2017. Retrieved from: <http://www.cic.gc.ca/english/resources/tools/cit/admin/decision/natural.asp>.
- [53](#) External stakeholders include members of the trade community and BCCC members.
- [54](#) An example supporting this perception is the so-called “Bri-Chem trilogy”. In September 2015, the CITT released three decisions which instructed the CBSA that the CITT’s legal interpretations of the Customs Act are binding on the CBSA unless it successfully appeals to the Federal Court of Appeal or the Supreme Court of Canada.
- [55](#) A correct decision is based on a well-reasoned interpretation of relevant legislation and jurisprudence in relation to reasonable findings of fact specific to the case. Source: CBSA Internal Documentation.
- [56](#) Natural justice helps to ensure that the decision maker followed the proper procedure in arriving at their decision. Source: Government of Canada, 2014. Citizenship: Natural Justice and Procedural Fairness. Accessed on March 16, 2017. Retrieved from: <http://www.cic.gc.ca/english/resources/tools/cit/admin/decision/natural.asp>.
- [57](#) Enforcement appeal decisions are appealed in the courts, agricultural cases are appealed at CART and trade appeal decisions are appealed at the CITT.
- [58](#) Source: CBSA Internal Documentation.
- [59](#) Cases that were withdrawn or settled without being presented were removed from this calculation.
- [60](#) Cases that were withdrawn or settled were not included in the outcomes for this exhibit.
- [61](#) Expenditure data has not been included for 2016-2017 given that the actual spending has not been fully totaled.
- [62](#) Recourse Regional Trade Appeal Offices (Toronto, Hamilton and Montréal) were not part of the

Directorate in 2011-2012 and 2012-2013, therefore only financial data after 2013-2014 was included.

[63](#) Other types of decisions include third-party appeals and requests for extension.

[64](#) Two full-time equivalents were transferred to the Recourse Directorate when SIMA appeals were moved.

[65](#) Source: CBSA Internal Documentation.

[66](#) Source: CBSA Internal Documentation.

[67](#) Source: CBSA Internal Documentation.

[68](#) The BCCC provides CBSA officials and commercial stakeholders with a forum to discuss border-related policies, operational programs and administrative procedures that govern and affect Canada's commercial trade. Source: CBSA. Border Commercial Consultative Committee. Accessed on March 7, 2017. Retrieved from: <http://www.cbsa-asfc.gc.ca/agency-agence/consult/bccc-ccacf/menu-eng.html>.

[69](#) World Customs Organization, Revised Integrity Development Guide, June 2014. Retrieved from <http://www.wcoomd.org/en/topics/integrity/instrument-and-tools.aspx>.

[70](#) Some of the interviews were in a group format and on a few occasion an interviewee was interviewed twice (this was only counted once).

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