



Canadian International Trade Tribunal



For the
period ending
March 31, 1997



Improved Reporting to Parliament —
Pilot Document

Canada

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Foreword

On April 24, 1997, the House of Commons passed a motion dividing what was known as the *Part III of the Estimates* document for each department or agency into two documents, a *Report on Plans and Priorities* and a *Departmental Performance Report*. It also required 78 departments and agencies to table these reports on a pilot basis.

This decision grew out of work by Treasury Board Secretariat and 16 pilot departments to fulfil the government's commitments to improve the expenditure management information provided to Parliament and to modernize the preparation of this information. These undertakings, aimed at sharpening the focus on results and increasing the transparency of information provided to Parliament, are part of a broader initiative known as "Getting Government Right".

This *Departmental Performance Report* responds to the government's commitments and reflects the goals set by Parliament to improve accountability for results. It covers the period ending March 31, 1997 and reports performance against the plans presented in the department's *Part III of the Main Estimates* for 1996-97.

Accounting and managing for results will involve sustained work across government. Fulfilling the various requirements of results-based management – specifying expected program outcomes, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and report on achievements – is a building block process. Government programs operate in continually changing environments. With the increase in partnering, third party delivery of services and other alliances, challenges of attribution in reporting results will have to be addressed. The performance reports and their preparation must be monitored to make sure that they remain credible and useful.

This report represents one more step in this continuing process. The government intends to refine and develop both managing for results and the reporting of the results. The refinement will come from the experience acquired over the next few years and as users make their information needs more precisely known. For example, the capacity to report results against costs is limited at this time; but doing this remains a goal.

This report is accessible electronically from the Treasury Board Secretariat Internet site:
<http://www.tbs-sct.gc.ca/tb/key.html>

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Canadian International Trade Tribunal

Performance Report

**For the
period ending
March 31, 1997**

Paul Martin
Minister of Finance

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Section I: The Chair's Message

I am pleased to present the Performance Report of the Canadian International Trade Tribunal (the Tribunal) for fiscal year 1996-97. The Tribunal is a key player within Canada's trade remedies system as a result of its jurisdiction under the *North American Free Trade Agreement* (NAFTA), the *Agreement on Internal Trade* (the AIT) and the World Trade Organization (WTO) agreements.

In fiscal year 1996-97, the Tribunal continued to implement budgetary measures already announced. However, these budgetary measures have substantially reduced the Tribunal's flexibility to meet the various demands of its diverse mandate.

Recognizing the difficult resource environment in which it must operate, the Tribunal has already taken a number of measures to streamline its activities. These include an in-depth review of its procedures relating to dumping and subsidizing injury inquiries; more systematic use of case management strategies; use of videoconferencing technology for hearing appeals of decisions of the Department of National Revenue; and the initiation of a review of its rules of procedure.

The Tribunal will pursue its efforts to streamline its activities. The assessment of the feasibility of using information technology to automate the Tribunal's administrative record in all its proceedings and the completion of the review of its rules of procedure will contribute significantly in achieving the Tribunal's objectives. Finally, the government plans to introduce a bill in the fall to amend the *Special Import Measures Act* (SIMA). The proposed amendments to SIMA, if accepted, will impact directly on the Tribunal's activities and will require it to adjust to a new environment.

The Tribunal believes that these measures and initiatives will ensure that Canadians continue to receive the benefits of a fair, open and competitive international trading system.

Raynald Guay
Acting Chair

Section II: Departmental Overview

Mandate

The Tribunal derives its authority from the *Canadian International Trade Tribunal Act* (the CITT Act), which received Royal Assent on September 13, 1988. The Tribunal's mandate is to:

- conduct inquiries into whether dumped or subsidized imports have caused material injury or retardation or are threatening to cause material injury to a domestic industry;
- hear appeals of decisions of the Department of National Revenue (Revenue Canada) made under the *Customs Act*, the *Excise Tax Act* and SIMA;
- conduct investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their production operations;
- conduct inquiries into complaints by potential suppliers concerning procurement by the federal government that is covered by NAFTA, the AIT and the *WTO Agreement on Government Procurement*;
- conduct safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, serious injury to domestic producers; and
- conduct inquiries and provide advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance.

Role and Responsibilities

The Tribunal is a key player within Canada's trade remedies system. In its quasi-judicial role, the Tribunal protects Canadian producers from two important forms of unfair competition originating in foreign countries: injurious dumping and subsidizing. The Tribunal also acts as a court of easy access for appeals from Revenue Canada decisions on customs and excise matters and for complaints regarding designated government procurements.

In its advisory role, the Tribunal assists the government, through its fact-finding inquiries, in the formulation of strategies aimed at making Canadian producers more competitive in the global trade environment. Through its standing reference on textile tariff relief, the Tribunal assists the government in determining the levels of tariffs that will ensure that economic gains for Canada are maximized in an industry that faces changing market demands.

With the emergence of a freer and more open trading system, Canada must increasingly rely on a fair and efficient trade remedies system. Through its various jurisdictions, the Tribunal contributes to the maintenance of a healthy Canadian economy and to fair trading relations with Canada's trade partners.

Objective

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

Strategic Priorities

The Tribunal has established the following priorities:

- to maintain the quality of the Tribunal's findings, determinations and recommendations;
- to hear and make decisions expeditiously on matters that fall within the jurisdiction of the Tribunal pursuant to acts of Parliament or regulations; and
- to maintain the Tribunal's independence and accessibility as a quasi-judicial organization.

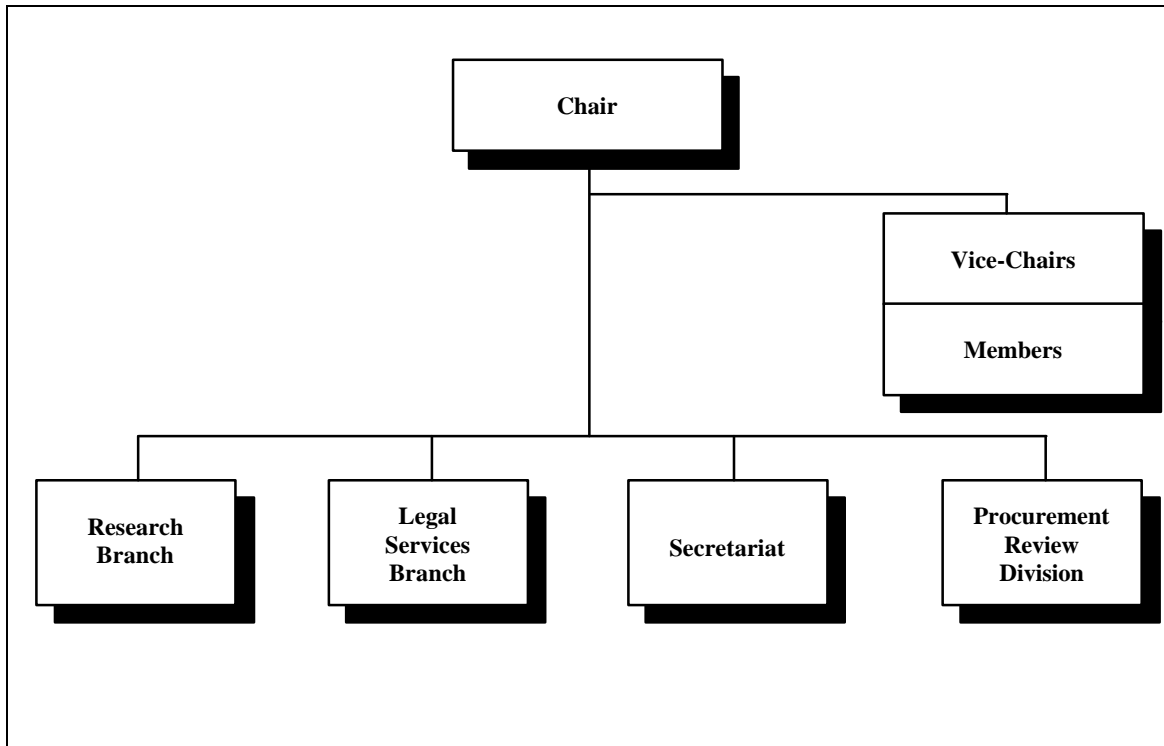
Business Line and Organization Composition

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

The Tribunal may be composed of up to nine full-time members, including a Chair and two Vice-Chairs, who are appointed by the Governor in Council for a term of up to five years. A maximum of five additional members may be temporarily appointed. The Chair is the Chief Executive Officer responsible for the assignment of members and for the management of the Tribunal's work. Members come from a variety of educational backgrounds, careers and regions of the country.

Members of the Tribunal are supported by a permanent staff of 87. Its principal officers are the Executive Director, Research, responsible for the economic and financial analysis of firms and industries and for other fact finding required for Tribunal inquiries; the Secretary, responsible for administration, the court registrar functions of the Tribunal, relations with the public and dealings with other government departments and other governments; the General Counsel, responsible for the provision of legal services to the Tribunal; and the Director of the Procurement Review Division, responsible for the investigation of complaints by potential suppliers concerning any aspect of the procurement process.

Organization Structure



In carrying out most of its responsibilities, the Tribunal conducts hearings that are open to the public. In some instances, it may decide cases on the basis of written submissions. Hearings are normally held in Ottawa, Ontario, the location of the Tribunal's offices. The Tribunal has rules and procedures similar to those of a court of law, but not quite as formal or strict. The CITT Act states that hearings, conducted generally by a panel of three members, should be carried out as "informally and expeditiously" as the circumstances and considerations of fairness permit. The Tribunal has the power to subpoena witnesses and require parties to submit information, even when it is commercially confidential. The CITT Act contains provisions that strictly control access to confidential information.

The Tribunal's decisions may be reviewed by or appealed to, as appropriate, the Federal Court of Canada and, ultimately, the Supreme Court of Canada, or a binational panel under NAFTA, in the case of a decision affecting the US and/or Mexican interests. Governments that are members of the WTO may appeal the Tribunal's decisions to a dispute settlement panel under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

Section III: Departmental Performance

A. Performance Expectations

Planned Versus Actual Spending Tables

Comparison of Total Planned Spending to Actual Expenditures, 1996-97 by Business Line

(\$ millions)

Business Line	FTE	Operating ¹	Capital	Total Expenditures
Canadian International Trade Tribunal	100	8.0	0.0	8.0
	87	8.1	0.0	8.1 ²
Total	100	8.0	0.0	8.0
	87	8.1	0.0	8.1 ²
Cost of services provided by other departments				2.1
				2.1
Net Cost of the Program				10.1
				10.2

Note: Shaded numbers denote actual expenditures in 1996-97.

1. Operating includes contributions to employee benefit plans.
2. Actual Expenditures were higher than Main Estimates. Main Estimates were exceeded due to the transfer of carry forward from 1995-96 of \$364,850 and to an adjustment to employee benefit plans of \$32,000.

Departmental Planned Versus Actual Spending by Business Line

(\$ millions)

Business Line	Actual 1993-94	Actual 1994-95	Actual 1995-96	Total Planned 1996-97	Actual 1996-97
Canadian International Trade Tribunal	8.6	7.8	7.9	8.0	8.1
Total	8.6	7.8	7.9	8.0	8.1

Summary of Performance Expectations

Canadian International Trade Tribunal	
Provides to Canadians:	To be demonstrated by:
Support of a fair and open trade system	<ul style="list-style-type: none">➤ Upholding of the Tribunal's decisions by national and international appeal bodies.➤ Implementation of the Tribunal's recommendations by the government.➤ Publication of the Tribunal's decisions in a timely way.➤ The Tribunal's decisions are viewed as fair and impartial by domestic and international stakeholders.

B. Performance Accomplishments

Departmental Performance

The economic climate is a key external factor affecting the work of the Tribunal. It is a responsive institution reacting entirely to external demand. It may not refuse any reference from the Governor in Council or the Minister of Finance, or refuse to hear any individual or firm on any matters within the Tribunal's jurisdiction.

During 1996-97, the Tribunal initiated four new inquiries under SIMA. Three cases were brought forward from the previous fiscal year. Decisions were rendered in respect of five of these cases, and two were pending at March 31, 1997. In regard to SIMA inquiries, the Tribunal is obliged to meet statutory deadlines (120 days) and has done so successfully in all cases concluded in the fiscal period.

In addition to inquiries, the Tribunal conducts reviews of previous findings and orders. These reviews may be self-initiated or initiated as a result of a request from an interested party or further to a notice of the expiry of an earlier finding or order. Though statutory deadlines do not apply to these reviews, the Tribunal endeavors to ensure that its orders (final decisions) are issued prior to or upon the expiry date of the earlier finding or order. In the year just passed, three reviews were carried forward from the previous year and five new reviews were initiated. Six decisions were rendered, and two remained outstanding at March 31, 1997. One request for review was received, and the Tribunal's decision was rendered within 120 days.

During the fiscal year, two Tribunal decisions were appealed to the Federal Court of Canada. In one case, the Court set aside the Tribunal's finding and referred the matter back for a re-hearing; in the second case, the appeal was dismissed.

The Tribunal received one reference for an advice on whether the evidence in a dumping complaint disclosed a reasonable indication that the dumping had caused injury or was threatening to cause injury to the domestic industry. The Tribunal issued the advice within the statutory deadline of 30 days.

Where, as a result of a dumping or subsidizing inquiry, the Tribunal makes an injury finding, it may also consider, on its own initiative or upon request, whether the imposition of an anti-dumping or countervailing duty in the full amount or otherwise would not or might not be in the public interest. One such investigation was completed, on time, in the fiscal year. In one other case, the question was raised, and the Tribunal's decision as to whether consideration of the public interest question in that case was warranted was still pending at the end of the fiscal year.

The Tribunal also hears appeals from decisions rendered under the *Customs Act*, the *Excise Tax Act* and SIMA. In the past fiscal year, 242 appeals were filed with the Tribunal, and 158 decisions were rendered. Again, though no statutory deadlines apply to appeals, the Tribunal makes every effort to render decisions in a timely and expeditious manner. The present objective is to render decisions within 120 days of the hearing date. Nonetheless, the record shows that, with regard to the 158 decisions rendered in 1996-97, the average elapsed time from the date of the hearing to the date of the decision was 117 days. Of the decisions rendered in the fiscal year, 15 were appealed to the Federal Court of Canada and all were pending at the end of the fiscal year. Of 5 judgments rendered by the Court, of which the Tribunal has been apprised, only 1 Tribunal decision was overturned.

At year end, there were 637 outstanding appeals. Many of these appeals were being held in abeyance pending the outcome of a few "lead" cases now before the Tribunal or the Federal Court of Canada that deal with the same legal issues. In almost all of these cases, there is mutual consent between the parties and with the Tribunal that these cases should be deferred, but the Tribunal maintains a close watch to ensure that such cases are dealt with as soon as the lead case has been decided by it or the Court.

The Tribunal has the mandate to conduct inquiries relating to the procurement practices of the federal government. After the receipt of a properly documented complaint, the Tribunal must generally issue its findings and determination within 90 days. There is an "express option," in which case the determination is made within 45 days. In 1996-97, a total of 41 complaints were received to add to the 8 complaints that were already in progress at April 1, 1996. Written findings were issued in respect of 12 of these cases. The complaints were found to be valid in 5 cases. In all but one case, the government institution implemented the Tribunal's recommendations. Of the remaining cases, 28 were withdrawn or not initiated. All determinations were made within the prescribed time frame. One case, in which the complaint was determined to be not valid, has been appealed to the Federal Court of Canada. That case was still pending at the end of the fiscal year.

The Tribunal has also been mandated to conduct investigations into requests from importers for tariff relief on imported textile inputs used in domestic production. The Tribunal can, after an investigation, recommend to the Minister of Finance that the duty be reduced or

eliminated. A large number of requests were received in the 1995-96 fiscal year, resulting in a carry-over of 58 requests. Sixteen new cases were received in 1996-97, which represents the third year of this mandate. The Tribunal disposed of these cases expeditiously, such that, at year end, 23 reports had been presented to the Minister of Finance, which related to 56 requests for tariff relief, plus a reference from the Minister of Finance for a further investigation into a recommendation previously made by the Tribunal. Seven cases were withdrawn, and only 10 were outstanding at year end. At the end of 1996-97, a total of 34 recommendations had been implemented by the Minister of Finance and 6 were awaiting action. Since the establishment of the textile tariff relief program, only 1 recommendation has not been implemented by the Minister of Finance.

With respect to the conduct of the Tribunal's activities, a number of successful initiatives have been introduced to promote efficiency and accessibility. Teleconferencing is being used increasingly to deal with preliminary matters and, in a few of the less complex cases, the case itself is heard by means of teleconference. Videoconferencing has also been introduced and applied in a number of appeal cases. The reaction of parties, Tribunal members and staff has generally been positive. These initiatives enable cases to be dealt with more quickly and at less cost to all parties concerned.

The Tribunal has continued its review of the *Canadian International Trade Tribunal Rules* with a view to streamlining and modernizing current practices and procedures.

A review of SIMA is also currently underway. A number of the reforms proposed by the parliamentary sub-committees were designed to improve efficiency and maintain the fairness of the inquiry process. The Tribunal proposed many of these changes to the parliamentary sub-committees based on its experience with SIMA cases.

Following consultations with its stakeholders, the Tribunal implemented a number of changes to its procedures in injury inquiries and reviews under SIMA. The changes, as a whole, are intended to foster a process whereby parties' positions are more fully documented prior to the hearing, thereby reducing hearing time and costs to parties involved.

Finally, since September 1996, the Tribunal has a Web site on the Internet (www.citt.gc.ca). The Web site provides for quick and easy access to Tribunal notices, findings, decisions, recommendations and determinations and to various publications. The site averages 210 hits per week. Feedback from users has been extremely positive and helpful. Improvements to the site continue to be made to accommodate and better serve the needs of the users.

Section IV: Supplementary Information

A. Listing of Statutory and Departmental Reports

1. Tribunal's Web site

www.citt.gc.ca

2. Publications

Annual Reports

- 1989-90 to 1996-97

Annual Status Reports

- Textile Reference: Annual Status Report - October 1, 1994, to September 30, 1995
- Textile Reference: Annual Status Report - October 1, 1995, to September 30, 1996

Bulletins

- April to June 1996
- July to September 1996
- October to December 1996
- January to March 1997

Guides

- *Introductory Guide on the Canadian International Trade Tribunal*
- *Textile Reference Guide*
- *Procurement Review Process - A Descriptive Guide*
- *Procurement Cost Guidelines*

Pamphlets

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

B. Contact for Further Information

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C. Financial Summary Tables

Summary of Voted Appropriations

Authorities for 1996-97 - Part II of the Estimates

Financial Requirements by Authority (\$ millions)

Vote	(\$ millions)	1996-97 Main Estimates	1996-97 Actual
Canadian International Trade Tribunal			
35	Program Expenditures	7.5	7.2
(S)	Contributions to Employee Benefit Plan	0.9	0.9
Total		8.4	8.1

Legislation Governing the Work of the Canadian International Trade Tribunal

<i>Canadian International Trade Tribunal Act</i>	R.S.C. 1985, c. 47 (4th Supp.)
<i>Customs Act</i>	R.S.C. 1985, c. 1 (2nd Supp.)
<i>Excise Tax Act</i>	R.S.C. 1985, c. E-15
<i>Special Import Measures Act</i>	R.S.C. 1985, c. S-15
<i>Softwood Lumber Products Export Charge Act</i>	R.S.C. 1985, c. 12 (3rd Supp.)
<i>Energy Administration Act</i>	R.S.C. 1985, c. E-6.
<i>Canadian International Trade Tribunal Regulations</i>	SOR/89-35, December 27, 1988, <i>Canada Gazette</i> Part II, Vol. 123, No. 2 at 255
<i>Canadian International Trade Tribunal Rules</i>	SOR/ 91-499, August 14, 1991, <i>Canada Gazette</i> Part II, Vol. 125, No. 18 at 2912

In addition, the following agreements also impact the work of the Tribunal:

Agreement on Internal Trade .
North American Free Trade Agreement
World Trade Organization Agreements