



Civil Aviation Tribunal of Canada

Performance Report

For the period ending
March 31, 1998

Canada

Improved Reporting to Parliament Pilot Document

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

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Foreword

On April 24, 1997, the House of Commons passed a motion dividing on a pilot basis what was known as the annual *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*.

This initiative is intended to fulfil the government's commitments to improve the expenditure management information provided to Parliament. This involves sharpening the focus on results, increasing the transparency of information and modernizing its preparation.

This year, the Fall Performance Package is comprised of 80 Departmental Performance Reports and the government's "*Managing For Results*" report.

This ***Departmental Performance Report***, covering the period ending March 31, 1998, provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the department's *Part III of the Main Estimates* or pilot *Report on Plans and Priorities* for 1997-98. The key result commitments for all departments and agencies are also included in *Managing for Results*.

Results-based management emphasizes specifying expected program results, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and reporting on achievements in a balanced manner. Accounting and managing for results involve sustained work across government

The government continues to refine and develop both managing for and reporting of results. The refinement comes from acquired experience as users make their information needs more precisely known. The performance reports and their use will continue to be monitored to make sure that they respond to Parliament's ongoing and evolving needs.

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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Civil Aviation Tribunal

Performance Report

**For the
period ending
March 31, 1998**

Table of Contents

Section I: The Message	2
Section II: Departmental Overview	3
Mandate, Vision and Mission	3
Mission Statement	3
Operating Environment	3
Objectives	4
Strategic Priorities	4
Challenges	4
External Factors Influencing the Program	4
Departmental Organization	5
Section III: Departmental Performance	6
Performance Expectations	6
Performance Accomplishments	6
Key Results Commitments	6
Effectiveness	9
Year 2000 Readiness	12
Section IV: Financial Performance	13
Summary of Voted Appropriations	13
Section V: Other Information	15
A. Statutory Annual and Other Departmental Reports	15
B. Contacts for Further Information	15
C. Legislation Administered by the Civil Aviation Tribunal	15

List of Figures

Figure 1: Organization Chart	5
Figure 2: Financial Information	6
Figure 3: Key Results Commitments	6
Figure 4: Status of Cases	8
Figure 5: Reviews and Appeals	8
Figure 6: Cases Concluded Without Hearing	9
Figure 7: Total Cases by Category	10
Figure 8: Reviews and Appeals Held	10
Figure 9: Average Costs for Reviews and Appeals	10
Figure 10: Reviews and Appeals Held During Past 12 Years	11
Figure 11: New Files per Fiscal Year for Past 12 Years	11
Figure 12: Reviews and Appeals Held Over Past 4 Years	11

List of Financial Tables

Financial Table 1: Authorities for 1997–98	13
Financial Table 2: Comparison of Total Planned Spending to Actual Expenditures	13
Financial Table 3: Historical Comparison of Total Planned to Actual Spending	14

Section I: The Message

The Civil Aviation Tribunal, an independent quasi-judicial body possessing aeronautics expertise, is integral to the enforcement of aviation safety, airworthiness, and aviation security measures in Canada. It fulfils the essential role of providing an independent review of ministerial enforcement and licensing actions taken against holders of Canadian aviation documents under the *Aeronautics Act*.

The Tribunal conducts itself in an open, impartial manner consistent with procedural fairness and the rules of natural justice. It adjudicates matters that have a serious impact on the livelihood and operations of the aviation community. Given its structure and process for conducting hearings, the Tribunal is readily accessible to that community.

The knowledge and experience in aeronautics possessed by Tribunal members enhances their independence by equipping them to understand and assess the validity of the reasons for enforcement and licensing actions. It also increases the confidence which Transport Canada and Canadian aviation document holders place in the decisions of the Tribunal.

It is important to take into account the gains in efficiency that have been achieved simply as a result of the Tribunal and the parties appearing before it adjusting to the aviation safety enforcement and licensing regime implemented in the 1986 *Aeronautics Act* amendments. Parties appearing before it, including Transport Canada and organizations representing Canadian aviation document holders, have now acquired levels of experience and judgment which contribute greatly to achieving efficiencies in the hearing process, procedurally fair results and legitimacy for the overall enforcement process. This applies to all types of hearings.

Future Plans

The *Canada Transportation Act* has been amended and proclaimed on July 1, 1996. Regulations yet to be passed will enlarge the Civil Aviation Tribunal's mandate to include additional *Designated Provisions Regulations* cases in the subject areas.

Faye Smith
Chairperson

Section II: Departmental Overview

Mandate, Vision and Mission

The mandate of the Civil Aviation Tribunal is provided for by Part IV of the *Aeronautics Act*. The Tribunal's principal mandate is to hold review and appeal hearings at the request of interested parties with respect to certain administrative actions taken by the Minister of Transport.

The Civil Aviation Tribunal is a quasi-judicial body established in accordance with the amended *Aeronautics Act* (Bill C-36) which received Royal Assent on June 28th, 1985 and was proclaimed by Order in Council on June 1st, 1986.

The development of the legislation was prompted by recommendations resulting from the Inquiry into Aviation Safety in Canada, conducted by the Honourable Mr. Justice Charles L. Dubin.

The Minister's enforcement and licensing decisions may include the imposition of monetary penalties or the suspension, cancellation, or refusal to renew a Canadian aviation document on medical or other grounds. The person or corporation affected is referred to as the document holder.

These decisions are reviewed through a two-level hearing process: review and appeal. All hearings are to be held expeditiously and informally, in accordance with the rules of fairness and natural justice. At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

Mission Statement

The Civil Aviation Tribunal mission is to do justice and be seen to do justice in all reviews and appeals, resolve disputes according to the Tribunal's Rules of practice and procedures in all cases in a fair, independent and timely manner.

Operating Environment

The Civil Aviation Tribunal reports to Parliament through the Minister of Transport. Its client is the aviation community and serves the Canadian flying public by contributing to a safe and efficient aviation enforcement and licensing system.

The Civil Aviation Tribunal represents the only forum for ensuring that Canadian aviation document holders have access to an independent assessment governed by considerations of natural justice. Its role does not overlap with, nor is it duplicated by, any other agency, board or commission. It is unique in the transportation sector in that its function is entirely adjudicative.

Objectives

The objective of the program is to provide Canadian aviation document holders with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body.

Strategic Priorities

To process requests from Canadian aviation document holders and hold review and appeal hearings by an independent body.

Challenges

For the 1998–99 fiscal year the Tribunal faces the difficult task of moving its caseload. The Tribunal currently has a number of vacancies in its membership due to the expiration of Governor in Council part-time term appointments. During the 1998–99 fiscal year an additional nine of its current sixteen part-time members' terms will expire as well. The Tribunal will face a resource shortfall for the training of its newly appointed members during the next fiscal year.

External Factors Influencing the Program

Aviation Community: There are approximately 68,000 licensed aviation personnel in Canada and approximately 30,000 registered aircraft. Because of this volume, the number of infractions under the *Aeronautics Act* should rise slightly or at least remain unchanged.

Government Department: The Enforcement and Licensing personnel at Transport Canada can, under the *Aeronautics Act*, suspend, cancel or refuse to renew a Canadian aviation document or impose a monetary penalty. The level of enforcement is entirely controlled by Transport Canada but impacts on the program. The program is also affected by the department's rewrite of its aviation regulations including the designation of a large number of offences under the *Designated Provisions Regulations* which were formerly adjudicated in the court system.

International Arena: Consistent and fair determinations of Civil Aviation Tribunal Members uphold and reinforce Canada's commitment and implementation of International Civil Aviation Standards. Tribunal hearings involving international air carriers are also a level of activity that is controlled by Transport Canada's regulatory program.

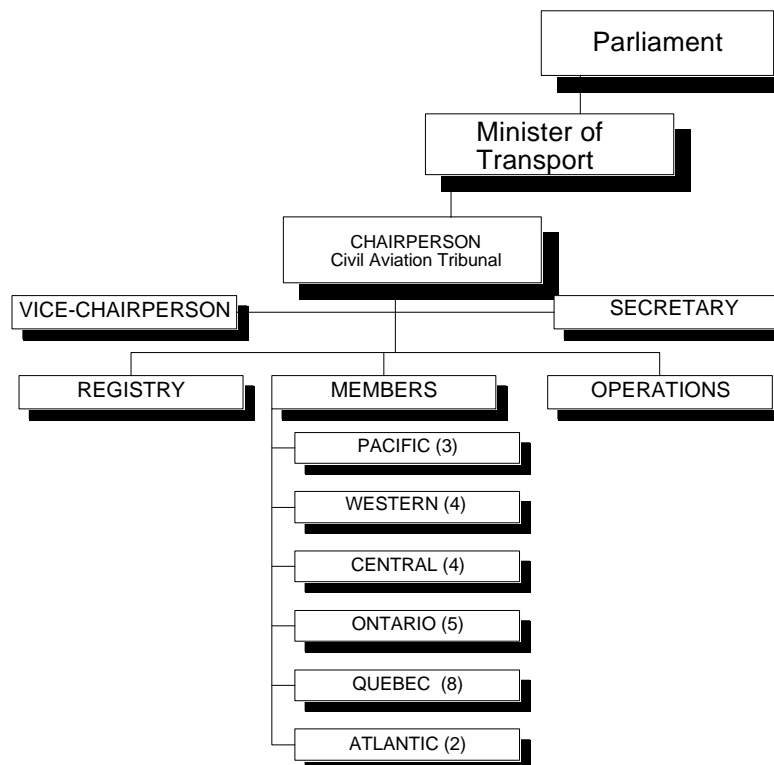
Departmental Organization

The Civil Aviation Tribunal's only business line is to hold review and appeal hearings. The Tribunal represents the only forum for ensuring that Canadian aviation document holders have access to an independent assessment governed by considerations of natural justice.

The office of the Tribunal is located in the National Capital Region. The Civil Aviation Tribunal's Chairperson is also its Chief Executive Officer. The Chairperson is responsible for the direction and supervision of the work necessary to facilitate the functions of the Tribunal.

The Chairperson, Vice-Chairperson and immediate staff account for eight full-time equivalents. Twenty-six part-time members were in office during 1997–98. Members are drawn from across Canada and are appointed by Order in Council on the basis of their knowledge and expertise in aeronautics, including aviation medicine.

Figure 1: Organization Chart



The lower half of the organization chart displays the distribution of part-time members by region. All members report to the Chairperson. Eight full-time equivalents are utilized by the continuing full-time employees including the Chairperson and Vice-Chairperson. The twenty-six part-time members are remunerated for the days they serve. They utilize an equivalent of two full-time equivalents.

Section III: Departmental Performance

Performance Expectations

The Civil Aviation Tribunal continued to provide a system within which review and appeal hearings can be held quickly, fairly and informally. It fulfilled the essential role of providing an independent review of the Minister of Transport's enforcement and licensing action taken against holders of Canadian aviation documents under the *Aeronautics Act*, thus ensuring a safe and efficient system for the Canadian flying public.

Figure 2: Financial Information

Civil Aviation Tribunal	
Planned Spending	\$ 901,000
Total Authorities	\$ 901,000
1997-98 Actuals	\$ 900,207

Performance Accomplishments

In the 1997-98 Estimates, the Tribunal forecasted work on approximately 390 case files with a total budget of \$901,000 and eight FTEs. That forecast represented the same level over the 1996-97 forecast. The actual case files worked on were 317. A breakdown of cases by categories and regions as well as reviews and appeals held are in Figures 7 and 8 on page 10.

Figure 3: Key Results Commitments

Civil Aviation Tribunal		
to provide Canadians with:	to be demonstrated by:	reported in:
independent review of enforcement and licensing decisions taken by the Minister of Transport under the <i>Aeronautics Act</i>	<ul style="list-style-type: none">hearings that are held expeditiously, fairly and informally	DPR Sec III P.8. Effectiveness Annual Report 97-98 P.16-19
	<ul style="list-style-type: none">timely disposition of review and appeal hearings within service standards	DPR Sec III P.8. Annual Report P.2 Civil Aviation Tribunal Rules
	<ul style="list-style-type: none">hearings conducted in accordance with the rules of fairness and natural justice	DPR Sec III P.8.
	<ul style="list-style-type: none">the use of pre-hearing conferences to streamline and expedite the hearing process	DPR Sec III P.8.
	<ul style="list-style-type: none">quality and consistency of decision making	DPR P.8.
	<ul style="list-style-type: none">a level of satisfaction by the aviation community	DPR Sec III Per. Accomplishments Web Site: http://198.103.98.171 Guide to Tribunal Hearings

In 1997–98 the Civil Aviation Tribunal continued to provide the Canadian aviation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body thus contributing to a safe and efficient aviation enforcement and licensing system for the Canadian flying public.

In conducting its reviews of enforcement and licensing decisions of the Minister of Transport the Civil Aviation Tribunal provides a public interest program that is unique to civil aviation in Canada. Tribunal hearings are readily accessible to the layperson without the attendant legal complexities and case backlogs which were visited upon the court system that prevailed prior to the creation of the Civil Aviation Tribunal. The Tribunal's efficiencies provide visible validation and confirmation of Canada's civil aviation safety system. Moreover, the Civil Aviation Tribunal process is able to quickly identify aviation concerns of a technical or legislative nature necessitating amendment to aviation regulations which benefits all Canadians through the enhancement and maintenance of aviation safety in Canada.

During 1997–98, the Civil Aviation Tribunal registered 151 new requests for reviews and appeals from the aviation community.

These requests are broken down into the following categories:

- Pilot medical
- Pilot suspension
- Pilot unpaid fine
- Pilot competence
- A.T.C.** medical
- A.T.C. suspension
- A.T.C. unpaid fine
- Personnel security unpaid fine
- Air Carrier suspension
- Air Carrier unpaid fine
- Air Carrier security unpaid fine
- A.M.E.* suspension
- A.M.E. unpaid fine
- Certificate of Airworthiness suspension
- Aircraft owner unpaid fine

* A.M.E. (aircraft maintenance engineer)

** A.T.C. (air traffic controller)

In addition to the new cases registered in this reporting period, 166 cases were carried over from the previous reporting period, bringing the total caseload to 317. This represents a decrease of 56 cases over 1996–97.

The 166 cases that were carried from 1996–97 to this reporting period are cases where action has been taken. Thirty-three cases had been scheduled to be heard in 1997–98, 11 cases were heard and were awaiting decisions at the 1996–97 year end and the remainder of cases were deferred, postponed or adjourned at the request of the document holder. Although there were fewer cases in 1997–98 than 1996–97, 99 cases proceeded to a hearing which represents an increase in the workload by 13% over the previous reporting period, as well as an increase in financial expenditures.

Figure 4: Status of Cases

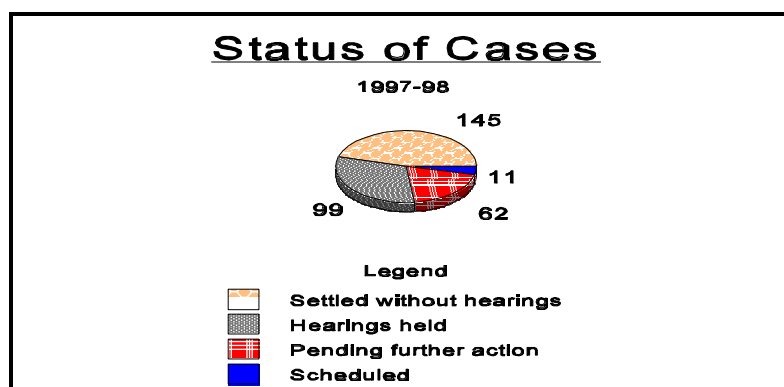
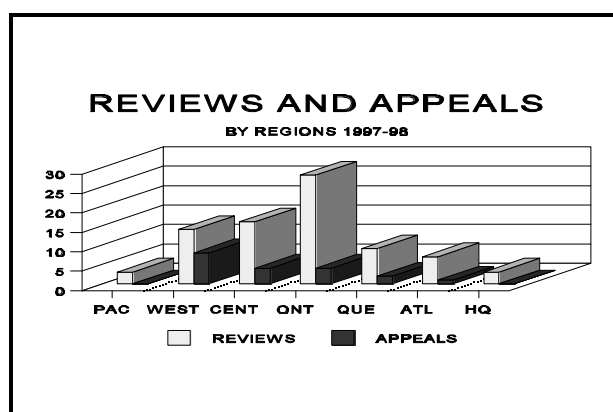


Figure 4 shows a breakdown of the 317 cases handled by the Tribunal. It reveals that 145 cases were concluded without a hearing, and 99 cases proceeded to a hearing of which 13 were awaiting decisions at the 1997–98 year end. At the end of the 12-month reporting period, 62 cases were pending further action of which 11 have been scheduled for the 1998–99 fiscal year.

Of the 99 cases that proceeded to a hearing, 80 or 81% were 1st level reviews, and 19 or 19% were 2nd level appeals.

Figure 5: Reviews and Appeals

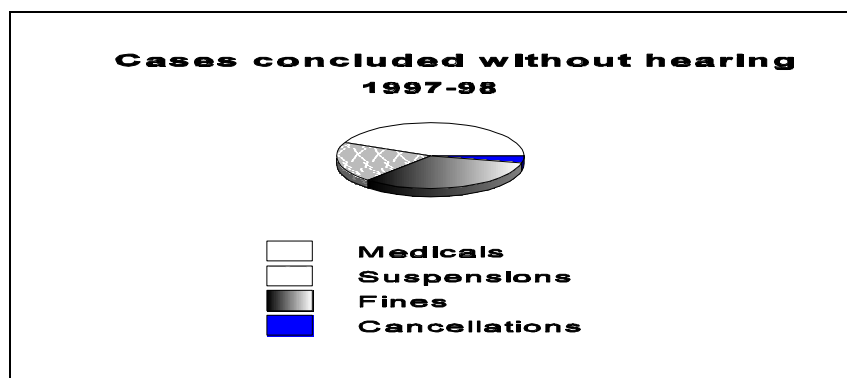


The 145 cases concluded without a hearing were resolved in a number of ways:

- pre-hearing conference;
- document holder paid fine before hearing;
- document holder's licence reinstated before hearing;
- request for hearing withdrawn by document holder;
- allegation withdrawn by Minister;
- agreement reached between parties.

It should be noted that many of the 145 cases concluded without a hearing were requests registered with the Tribunal and concluded shortly before the hearing was to take place, which means that all the work that leads up to the hearing was completed. In many cases the Tribunal was able to have the parties reach an agreement by way of pre-hearing conferences. In other cases, Transport Canada or the document holder withdrew their application. The categories of Cases Concluded Without a Hearing are shown in Figure 6 on page 9.

Figure 6: Cases Concluded Without Hearing



The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal and to disclose and exchange documents. This reduces the length of hearings and avoids last-minute adjournments necessitated by late disclosure. Twelve pre-hearing conferences were convened in the 1997–98 fiscal year.

Such conferences have also been particularly effective in settling licence suspensions and cancellations on medical grounds without the necessity of a hearing. Instead of automatically assigning hearing dates, the Tribunal staff contact parties to schedule mutually agreed dates and locations. This avoids the expense of cancelling booked hearing rooms and travel arrangements when adjournments are sought to change an imposed hearing date.

Effectiveness

The program's effectiveness can be measured by its ability to provide the aviation community with the opportunity to have Ministerial decisions reviewed fairly, equitably and within a reasonable period of time. The Tribunal strongly encourages its members to provide their determinations quickly. Although there is no statutory requirement for it to do so, the Tribunal issues written reasons for all its determinations. This allows Transport Canada and Canadian aviation document holders to better understand the outcome of the matter and, where applicable, to make a more enlightened decision as to the exercise of their right of appeal. The average lapsed time between the conclusion of a review hearing and the issuance of a determination is thirty-four days and forty-eight days for an appeal. This represents an improvement in efficiency from 1992–93 as the average lapsed time between the conclusion of a review hearing and the issuance of a determination was 120 days and 90 days for an appeal. This brings the hearing process to a timely conclusion for both parties appearing before the Tribunal.

Indicators in Figures 7 and 8 are actual numbers of cases. Total cases by category are not sufficient to determine all financial implications by simply forecasting the number of applications received by type of infraction and the manner in which they are dealt with. However, an estimated cost average for review and appeal hearings for the past two fiscal years is presented in Figure 9.

Figure 7: Total Cases by Category

	PAC	WEST	CENT	ONT.	QUE.	ATL.	HQ.	TOTALS	%
Medicals	19	14	8	64	24	14	0	144	45
Suspensions	3	7	8	16	8	5	6	53	16
Fines	6	16	28	22	15	16	0	103	33
Cancellations	3	5	1	1	8	0	0	18	6
Totals	31	42	45	103	55	35	6	317	100
%	10	13	14	34	16	11	1	100	

Figure 8: Reviews and Appeals Held

	PAC	WEST	CENT	ONT.	QUE.	ATL.	HQ.	TOTALS	%
Reviews	3	14	16	28	9	7	3	80	81
Appeals	0	8	4	4	2	1	0	19	19
Totals	3	22	20	32	11	8	3	99	100

Figure 9: Average Costs for Reviews and Appeals

<i>(Dollars)</i>	1997-98	1996-97	% Inc / Dec
Reviews	\$2,843.00	\$2,810.00	+1.5
Appeals	\$6,064.00	\$5,811.00	+5.0
Reviews and Appeals Held	99	86	+13.2

When comparing the types of hearing actions, there are significant variances in resources spent due to uncontrollable factors such as location, travel, time spent on hearings, remuneration, interpreters, preparation, decision writing, costs for court reporting, transcripts, facilities and other support personnel. The average costs fluctuate each fiscal year as they are determined by the number of reviews.

Figures 10, 11 and 12 show the fluctuation of reviews and appeals held by fiscal year as well as total applications received at the Tribunal.

Figure 10: Reviews and Appeals Held During Past 12 Years

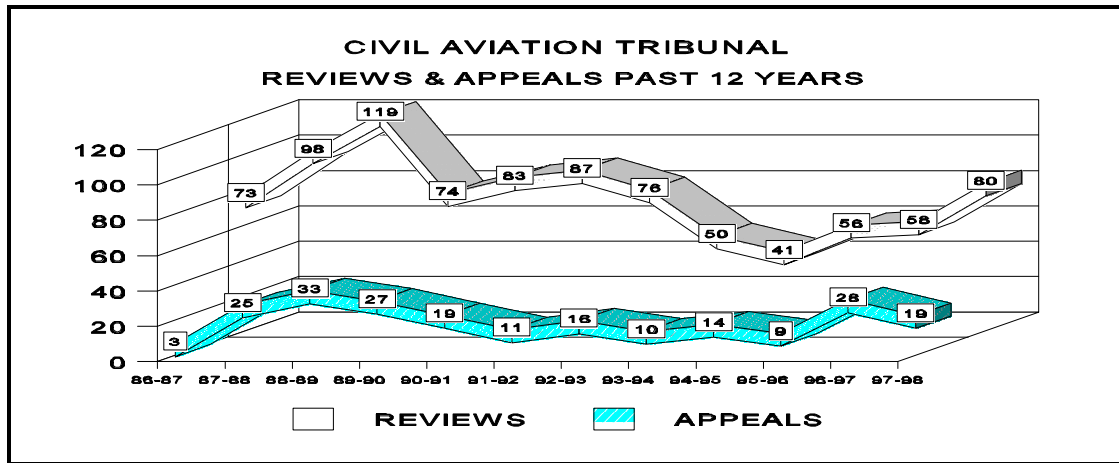


Figure 11: New Files per Fiscal Year for Past 12 Years

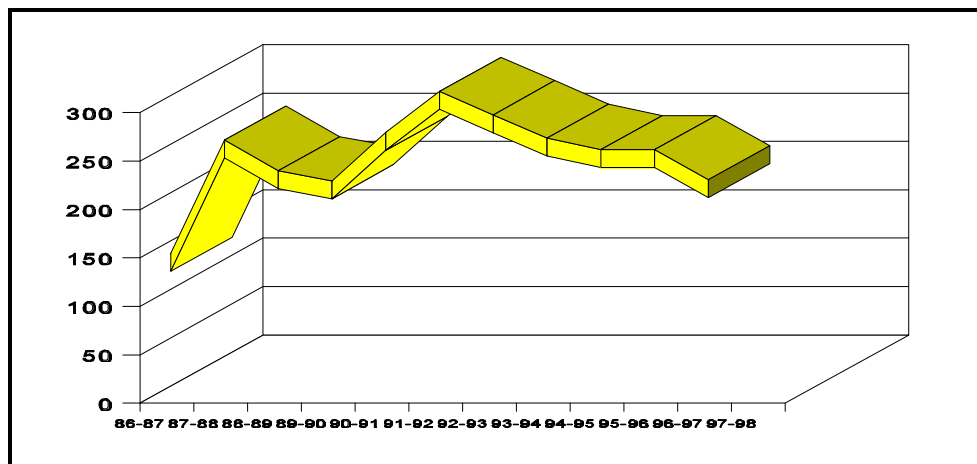


Figure 12: Reviews and Appeals Held Over Past 4 Years

	1994-95	1995-96	1996-97	1997-98
Reviews	46	56	58	80
Appeals	15	9	28	19
Totals	61	65	86	99
% Increases	—	6	24	13

Year 2000 Readiness

As of July 1998 the Tribunal has completed its analysis of its whole computerized system in both hardware and software. The computer hardware and software along with any associated systems are being monitored on a continuous basis with changes and additions being implemented as required.

The Tribunal has no dependencies on other systems for its daily operations. A risk analysis shows that should the Tribunal's computer system fail, it would be a substantial inconvenience to the staff, but would cause no loss of service to its clients. If such an event were to occur, a parallel backup system is in place that covers server hardware, cabling, stations, full data and software backup, consultants, hardware and software suppliers and a manual system and controls.

To this date all areas of concern have been addressed and plans are on track. Progress to fully resolve the issue should be completed by the end of the 1998–99 fiscal year.

Section IV: Financial Performance

Financial Table 1

Summary of Voted Appropriations Authorities for 1997–98

Financial Requirements by Authority (thousands of dollars)

Vote		1997–98 Planned Spending	1997–98 Total Authorities	1997–98 Actual
Civil Aviation Tribunal				
40	Program expenditures	819.0	832.0	818.2
(S)	Contributions to employee benefit plans	82.0	70.0	82.0
Total Program		901.0	902.0	900.2

Financial Table 2

Comparison of Total Planned Spending to Actual Expenditures

Departmental Planned versus Actual Spending by Business Line (thousands of dollars)

Business Line	FTEs	Operating ¹	Capital	Voted Grants and Contri- butions	Subtotal: Gross Voted Expendi- tures	Statutory Grants and Contri- butions	Total Gross Expendi- tures	Less: Revenue Credited to the Vote	Total Net Expendi- tures
Review and	8	901.0	—	—	901.0	—	901.0	—	901.0
Appeal Hearings	8	<i>901.0</i>	—	—	<i>901.0</i>	—	<i>901.0</i>	—	<i>901.0</i>
	8	900.2	—	—	900.2	—	900.2	—	900.2
Totals	8	901.0	—	—	901.0	—	901.0	—	901.0
	8	<i>901.0</i>	—	—	<i>901.0</i>	—	<i>901.0</i>	—	<i>901.0</i>
	8	900.2	—	—	900.2	—	900.2	—	900.2

Other Revenues and Expenditures

Revenue credited to the Consolidated Revenue Fund

Cost of services provided by other departments

Net Cost of the Program

Total planned spending

Total authorities

Total of actual expenditures

—

—

161.3

1,062.3

1,062.3

1,061.5

Note: Normal font denotes planned spending

Italicized numbers denote total authorities

Bolded numbers denote actual expenditures in 1997–98

¹ Operating includes contributions to employee benefit plans.

Financial Table 3: Historical Comparison of Total Planned to Actual Spending

(\$ thousands)

Business Lines	Actual 1995–96	Actual 1996–97	Planned Spending 1997–98	Total Authorities 1997–98	Actual Spending 1997–98
Review and Appeal Hearings	839.0	848.0	901.0	901.0	900.2
Total	839.0	848.0	901.0	901.0	900.2

Financial Table 4: Crosswalk between Old Resource Allocation and New Allocation is not applicable to the Civil Aviation Tribunal

Financial Table 5: Resource Requirements by Organization and Business Line is not applicable to the Civil Aviation Tribunal

Financial Table 6: Revenues to the Vote is not applicable to the Civil Aviation Tribunal

Financial Table 7: Revenues to the Consolidated Revenue Fund is not applicable to the Civil Aviation Tribunal

Financial Table 8: Statutory Payments is not applicable to the Civil Aviation Tribunal

Financial Table 9: Transfer Payment is not applicable to the Civil Aviation Tribunal

Financial Table 10: Capital Spending by Business Line is not applicable to the Civil Aviation Tribunal

Financial Table 11: Capital Projects by Business Line is not applicable to the Civil Aviation Tribunal

Financial Table 12: Status of Major Crown Projects is not applicable to the Civil Aviation Tribunal

Financial Table 13: Loan, Investments and Advances is not applicable to the Civil Aviation Tribunal

Financial Table 14: Revolving Fund Financial Statements is not applicable to the Civil Aviation Tribunal

Financial Table 15: Contingent Liabilities is not applicable to the Civil Aviation Tribunal

Section V: Other Information

A. Statutory Annual and other Departmental Reports

Main Estimates 1997–98
Annual Report 1997–98
Performance Report for the period ending March 31, 1997
Guide to Tribunal Hearings

B. Contacts for Further Information

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Allister Ogilvie – Vice-Chairperson
Jean Pierre Thibault – Executive Services Manager
Marie Desjardins – Administrative assistant
Mary Cannon – Acting Registrar (Ontario, Prairie & Northern and Pacific Regions)
Susanne Forgues – Acting Registrar (Headquarters, Quebec and Atlantic Regions)
Monique Godmaire – Acting Deputy Registrar

C. Legislation Administered by the Civil Aviation Tribunal

Aeronautics Act (Bill C-36) June 1, 1986