

ANNUAL REPORT

**FOR THE FISCAL YEAR ENDING
MARCH 31, 2008**

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Cat. No. F40-2008E-PDF

ISBN 978-0-662-47946-8

ISSN 0846-6629

Accessible on the Tribunal's Web site at www.citt-tcce.gc.ca

Exemplaires en français aussi disponibles

June 6, 2008

The Honourable Jim Flaherty, P.C., M.P.
Minister of Finance
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

I have the honour of transmitting to you, for tabling in the House of Commons, pursuant to section 41 of the *Canadian International Trade Tribunal Act*, the Tribunal's Annual Report for the fiscal year ending March 31, 2008.

Yours sincerely,

André F. Scott
Chairperson

Foreword

Departure of Mr. Pierre Gosselin

In December 2007, the second term of Mr. Gosselin's appointment as Chairperson of the Canadian International Trade Tribunal (the Tribunal) came to an end. The Tribunal would like to take this opportunity to recognize Mr. Gosselin's important contribution to the work of the Tribunal over the past 10 years. He brought extensive experience in the area of international trade to the Tribunal upon his arrival and also provided strong managerial leadership to Tribunal members and staff throughout his two terms of appointment. For example, under his guidance, the Tribunal undertook major initiatives in the area of electronic case management, which placed the Tribunal at the forefront in this area. He also took measures to strengthen the Tribunal's management services capacity so as to be able to respond to the greater accountability required by the Government's central agencies during his term in office.

Mr. Gosselin personally presided over many important cases, most notably the 2002 *Safeguard Inquiry Into the Importation of Certain Steel Goods*. His innovative approach to the logistical challenges of the inquiry and the leadership that he showed while serving as presiding member of the panel assigned to the case ensured that the Tribunal delivered its report within the time lines established by the Government, despite the daunting length and complexity of the inquiry.

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CHAPTER I

HIGHLIGHTS

Members

On February 29, 2008, Mr. André F. Scott was appointed Chairperson of the Canadian International Trade Tribunal (the Tribunal). He replaced Mr. Pierre Gosselin whose second term expired on December 15, 2007. On September 25, 2007, Ms. Diane Vincent was appointed Vice-chairperson of the Tribunal. On March 10, 2008, Mr. Pasquale Michaele Saroli was appointed Member of the Tribunal.

During the fiscal year, Ms. Elaine Feldman resigned as Member of the Tribunal. In addition, the terms of Ms. Meriel V. M. Bradford and Mr. Zdenek Kvarda expired. The Tribunal would like to acknowledge the excellent work of these members.

Dumping and Subsidizing Inquiries and Reviews

In the fiscal year, the Tribunal issued two preliminary determinations of injury under subsection 37.1(1) of the *Special Import Measures Act (SIMA)*. The Tribunal also issued two findings, following injury inquiries, under section 43 and two orders following interim reviews pursuant to section 76.01. The Tribunal issued three orders following expiry reviews under section 76.03. At the end of the fiscal year, there was one expiry review in progress.

Procurement Review

In 1994, pursuant to the *North American Free Trade Agreement (NAFTA)*, the Government mandated the Tribunal as its reviewing body for bid challenges relating to procurement contracts. The mandate was expanded to include the bid challenge mechanism under both the World Trade Organization (WTO) *Agreement on Government Procurement (AGP)* and Canada's *Agreement on Internal Trade (AIT)*.

For procurements covered by these agreements, the Tribunal, in line with the objectives of the new *Federal Accountability Act*, provides suppliers with an effective means of redress whenever they feel that procurement actions are not conducted in a fair, open and transparent manner.

The Tribunal received 95 procurement complaints during the fiscal year. The Tribunal issued 23 determinations of its findings and recommendations. Eight of these determinations related to cases that were in progress at the end of fiscal year 2006-2007. One determination was remanded to the Tribunal.

In 2007-2008, the Department of Public Works and Government Services (PWGSC) alone issued approximately 17,200 contracts valued at between \$25,000 and \$400 million, for a total value of \$8.8 billion. The 95 complaints received in the fiscal year pertained to 91 different contracts, representing about 0.6 percent of the total number of contracts issued by PWGSC in 2007-2008. Although complaints represent only a small percentage of the procurements performed by the federal government, that small number belies a significant impact on the integrity of government procurement through disciplinary and instructional effects of complaints found valid.

Appeals

The Tribunal issued decisions on 22 appeals from decisions of the President of the Canada Border Services Agency (CBSA) and the Minister of National Revenue made under the *Customs Act* and the *Excise Tax Act*. In addition, the Tribunal issued a decision on remand further to a judgment by the Federal Court of Appeal.

Standing Textile Reference

In 1994, the Minister of Finance established a standing reference that mandated the Tribunal to investigate requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and to make recommendations to the Minister of Finance. During the fiscal year, the Tribunal issued four reports to the Minister of Finance concerning four requests for tariff relief. One request was withdrawn. At the end of the fiscal year, one case was in progress, and two requests had not yet been initiated.

Access to Tribunal Notices, Decisions and Publications

The Tribunal's Web site provides an exhaustive repository of all Tribunal notices, decisions and publications, as well as other information relating to the Tribunal's current activities. The Tribunal offers a subscriber alert service that notifies subscribers of each new posting on its Web site. Subscribers can choose their areas of interest. This service is available without charge.

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

Electronic Filing

The Tribunal offers a Secure E-filing Service. The service allows parties to file electronically both public and confidential documents with the Tribunal. All transmitted documents using the service are encrypted to ensure their confidentiality. The Secure E-filing Service can be accessed on the Tribunal's Web site (www.citt-tcce.gc.ca). It utilizes the Government of Canada's epass system, which allows the secure transmission of business confidential information.

Meeting Statutory Deadlines

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

Improved Reporting

Beginning with this annual report, the Tribunal is reporting selected statistics relating to decisions that it rendered in the fiscal year, such as those relating to directions and administrative rulings. Those statistics, set out in the following table, complement the caseload statistics table.

Caseload

	Cases Brought Forward From Previous Fiscal Year	Cases Received in Fiscal Year	Total	Decisions/ Reports Issued	Decisions Not to Initiate	Cases Withdrawn/ Closed	Cases Outstanding (March 31, 2008)
SIMA activities							
Preliminary injury inquiries	-	2	2	2	-	-	-
Inquiries	1	1	2	2	-	-	-
Public interest inquiries	1	-	1	-	1	-	-
Interim reviews	2	-	2	2	-	-	-
Expiries	1 ¹	4	5	3	-	-	2
Expiry reviews	1	3	4	3	-	-	1
TOTAL	6	10	16	12	1	-	3
Procurement review activities							
Complaints	8 ²	96 ³	104	23 ³	58	5	18
Appeals							
Extensions of time							
<i>Customs Act</i>	-	4	4	4	-	-	-
<i>Excise Tax Act</i>	-	1	1	1	-	-	-
TOTAL	-	5	5	5	-	-	-
Appeals							
<i>Customs Act</i>	59 ²	27 ³	86	21 ³	-	39	26
<i>Excise Tax Act</i>	53	1	54	2	-	8	44
<i>SIMA</i>	-	1	1	-	-	1	-
TOTAL	112	29	141	23³	-	48⁴	70
Standing textile reference							
Requests for tariff relief	1	7	8	4	-	1	3
<ol style="list-style-type: none"> 1. Number changed due to new method of reporting expiries. 2. Number changed due to reporting error in 2006-2007 annual report. 3. Includes one case that was remanded by the Federal Court of Appeal. 4. Includes a procedural dismissal order. 							

Statistics Relating to Decisions Rendered in the Fiscal Year

	<i>SIMA</i> Activities	Procurement Review Activities	Appeals	Standing Textile Reference	TOTAL
Orders					
Disclosure order	18	-	-	-	18
Cost award order	-	13	-	-	13
Compensation order	-	2	-	-	2
Production order	-	2	-	-	2
Postponement of award order	-	6	-	-	6
Rescission of postponement of award order	-	4	-	-	4
Directions/administrative rulings					
Requests for information	95	-	-	-	95
Like goods	2	-	-	-	2
Motions	-	6	-	-	6
Subpoenas	1	3	-	-	4
Other statistics					
Public hearing days	17	1	11	-	29
File hearings ¹	8	81	6	4	99
Witnesses	53	7	19	-	79
Participants	80	116	48	12	92
Questionnaire respondents ²	166	-	-	18	184
Exhibits ³	1,740	1,524	672	156	4,092
Pages of official records ³	66,289	N/A	N/A	932	67,221
^{1.} A file hearing occurs where the Tribunal renders a decision on the basis of written submissions, without holding a public hearing. ^{2.} Includes those that replied that they do not import or produce the goods subject to the inquiry or expiry review, and unsolicited replies. ^{3.} Estimate. N/A = Not available					

CHAPTER II

MANDATE, ORGANIZATION AND ACTIVITIES

Introduction

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

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

Mandate

The Tribunal's primary mandate is to:

- inquire into whether dumped or subsidized imports have caused, or are threatening to cause, injury to a domestic industry;
- inquire into complaints by potential suppliers concerning federal government procurement that is covered by *NAFTA*, the *AIT* and the *AGP*;
- hear appeals from decisions of the CBSA made under the *Customs Act* and *SIMA* or of the Minister of National Revenue under the *Excise Tax Act*;
- investigate requests from Canadian producers for tariff relief on imported textile inputs used in production operations and to make recommendations to the Minister of Finance on the relative benefits to Canada of the requests; and
- inquire into complaints by domestic producers that increased imports from all sources are causing, or threatening to cause, serious injury to domestic producers;
- conduct safeguard inquiries with respect to increased imports from the People's Republic of China (China);
- inquire into 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.

Governing Legislation

Section	Authority
<i>CITT Act</i>	
18	Inquiries on economic, trade or commercial interests of Canada by reference from the Governor in Council
19	Inquiries into tariff-related matters by reference from the Minister of Finance
19.01	Safeguard inquiries concerning goods imported from the United States and Mexico
19.02	Mid-term reviews of safeguard measures and report
20	Safeguard inquiries concerning goods imported into Canada and inquiries into the provision, by persons normally resident outside Canada, of services in Canada
23	Safeguard complaints by domestic producers
23(1.01) and (1.02)	Safeguard complaints by domestic producers concerning goods imported from the United States and Mexico
30.08 and 30.09	Safeguard measures
30.11	Complaints by potential suppliers in respect of designated contracts
30.21 to 30.26	Safeguard inquires concerning market disruption, trade diversion and market disruption extension regarding goods originating in China at the request of either the government or a domestic producer
<i>SIMA</i>	
33 and 37	Advice regarding reference to the Tribunal
34(2) and 35(3)	Preliminary injury inquiry
37.1	Preliminary determination of injury
42	Inquiries with respect to injury caused by the dumping and subsidizing of goods
43	Findings of the Tribunal concerning injury
44	Recommencement of inquiry (on remand from the Federal Court of Appeal or a binational panel)
45	Public interest
46	Advice to the CBSA
61	Appeals of re-determinations of the CBSA made pursuant to section 59 concerning whether imported goods are goods of the same description as goods to which a Tribunal finding applies, normal values and export prices or subsidies
76	Reviews of findings of injury initiated by the Tribunal or at the request of the CBSA or other interested persons
76.01	Interim reviews of orders by the Tribunal
76.02	Reviews of orders by the Tribunal on referral back and re-hearing
76.03	Expiry reviews
76.1	Reviews of findings of injury initiated at the request of the Minister of Finance
89	Rulings on who is the importer
<i>Customs Act</i>	
60.2	Application for an extension of time to request a re-determination or a further re-determination
67	Appeals of decisions of the CBSA concerning value for duty and origin and classification of imported goods
67.1	Requests for time extension to file notices of appeal
68	Appeals to the Federal Court of Appeal
70	References of the CBSA relating to the tariff classification or value for duty of goods
<i>Excise Tax Act</i>	
81.19, 81.21, 81.22, 81.23, 81.25 and 81.33	Appeals of assessments and determinations of the Minister of National Revenue
81.32	Requests for extension of time for objection or appeal
<i>Energy Administration Act</i>	
13	Declarations concerning the amount of oil export charge

Method of Operation

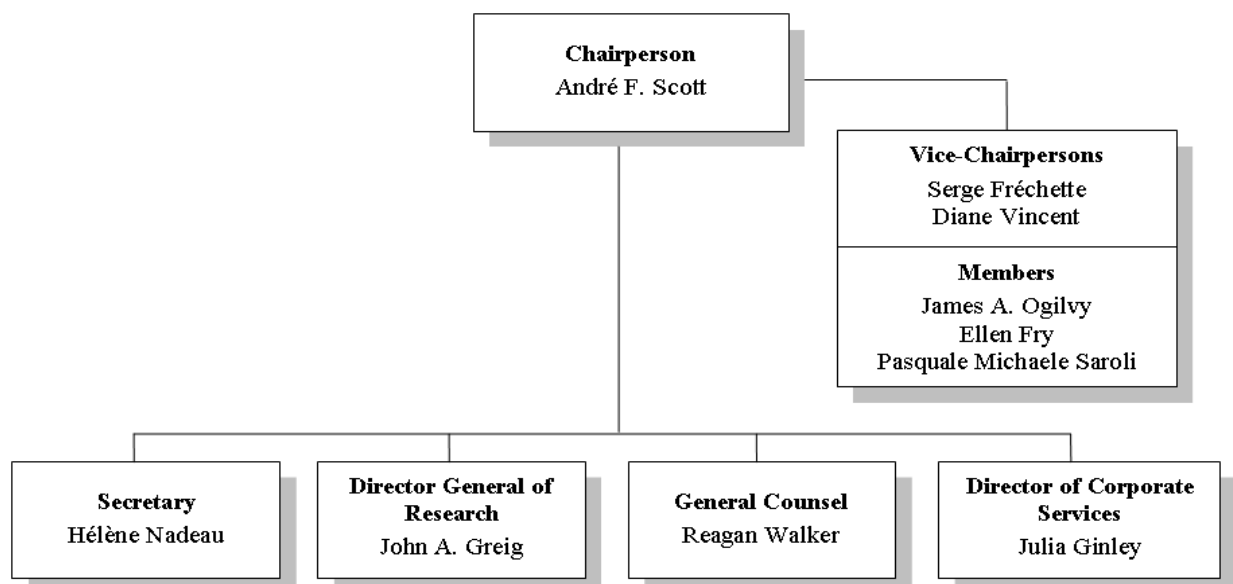
In carrying out most of its inquiry responsibilities, the Tribunal conducts hearings that are open to the public. These are ordinarily held at the Tribunal's offices in Ottawa, Ontario, although hearings may also be held elsewhere in Canada, either in person or through videoconferencing. The Tribunal follows rules and procedures similar to those of a court of law; however, in order to facilitate greater access, they are not as formal or strict. The *CITT Act* states that hearings, generally conducted by a panel of three members, should be carried out as "informally and expeditiously" as the circumstances and considerations of fairness permit. The Tribunal has the power to subpoena witnesses and require parties to submit information. The *CITT Act* contains provisions for the protection of confidential information. Only independent counsel who have filed declarations and confidentiality undertakings may have access to confidential information. Protecting commercially sensitive information against unauthorized disclosure has been, and continues to be, of paramount importance to the Tribunal.

Membership

The Tribunal may be composed of nine full-time members, including a Chairperson and two Vice-Chairpersons. All are appointed by the Governor in Council for a term of up to five years that is renewable once. The Chairperson is the Chief Executive Officer and is responsible for the assignment of members to cases and for the management of the Tribunal's work. Members come from a variety of educational backgrounds, careers and regions of the country.

Organization

There are currently 6 Tribunal members assisted by a permanent staff of 71 persons. Its principal officers are the Secretary, responsible for relations with the public and parties and the court registry functions of the Tribunal; the Director General of Research, responsible for the investigative portion of inquiries, including fact-finding related to trade, economic, commercial and tariff matters; the General Counsel, responsible for the provision of legal services; and the Director of Corporate Services, responsible for management services.



Consultations

Through the Bench and Bar Committee, the Tribunal provides a forum to promote discussion on issues of procedure. The committee includes representatives from the Canadian Bar Association, counsel at the Department of Justice and the trade consulting community who appear before the Tribunal. The Tribunal also consults with counsel, representatives of industries and others who appear or are likely to appear before the Tribunal to exchange views on new procedures being considered by the Tribunal prior to their distribution as guidelines or practice notices. The Tribunal also briefs federal government departments and trade associations on its procedures.

Judicial Review and Appeal to the Federal Court of Appeal

Any person affected by Tribunal findings or orders under section 43, 44 or 76 of *SIMA* can request judicial review by the Federal Court of Appeal, for instance, on grounds of alleged denial of natural justice or error of fact or law. Similarly, any person affected by Tribunal procurement findings and recommendations under the *CITT Act* can similarly request judicial review by the Federal Court of Appeal. Lastly, Tribunal appeal orders and decisions, under the *Customs Act*, can be appealed to the Federal Court of Appeal or, under the *Excise Tax Act*, to the Federal Court.

Judicial Review by NAFTA Binational Panel

Tribunal findings or orders under sections 43, 44 or 76 of *SIMA* involving goods from the United States and Mexico may be reviewed by a *NAFTA* binational panel.

WTO Dispute Resolution

Governments that are members of the WTO may challenge Tribunal injury findings or orders in dumping and countervailing duty cases before the WTO dispute settlement body. This is initiated by intergovernmental consultations under the WTO Dispute Settlement Understanding.

CHAPTER III

DUMPING AND SUBSIDIZING INJURY INQUIRIES AND REVIEWS

Process

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

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

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

Preliminary Injury Inquiries

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

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

If the Tribunal finds that there is a reasonable indication that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, it makes a determination to that effect, and the CBSA continues the dumping or subsidizing investigation. If there is no reasonable indication that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, the Tribunal terminates the inquiry, and the CBSA terminates the dumping or subsidizing investigation. The Tribunal issues reasons for its decision no later than 15 days after its determination.

Preliminary Injury Inquiry Activities

Preliminary injury inquiry no.	PI-2007-001	PI-2007-002
Product	Seamless carbon or alloy steel oil and gas well casing	Carbon steel welded pipe
Country	China	China
Date of determination	October 12, 2007	March 25, 2008
Determination	Injury	Injury
Participants	10	4
Pages of official record	4,953	4,993

Preliminary Injury Inquiries Completed in the Fiscal Year

The Tribunal completed two preliminary injury inquiries in the fiscal year. There were no preliminary injury inquiries in progress at the end of the fiscal year.

Final Injury Inquiries

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

As in a preliminary injury inquiry, the Tribunal seeks to make all interested parties aware of its inquiry. It issues a notice of commencement of inquiry that is published in the *Canada Gazette* and forwarded to all known interested parties.

In conducting final injury inquiries, the Tribunal requests information from interested parties, receives representations and holds public hearings. The Tribunal's staff carries out extensive research for each inquiry. The Tribunal sends questionnaires to domestic producers, importers, purchasers and foreign producers. Based primarily on questionnaire responses, the Tribunal's staff prepares a report that focuses on the factors that the Tribunal considers in arriving at decisions regarding injury or retardation or threat of injury to a domestic industry. The report becomes part of the case record and is made available to counsel and parties.

Parties participating in the proceedings may conduct their own cases or be represented by counsel. Confidential or business-sensitive information is protected in accordance with provisions of the *CITT Act*.

The *Special Import Measures Regulations* prescribe factors that the Tribunal may consider in its determination of whether the dumping or subsidizing of goods has caused injury or retardation or is threatening to cause injury to a domestic industry. These factors include, among others, the volume of dumped or subsidized goods, the effects of the dumped or subsidized goods on prices and the impact of the dumped or subsidized goods on production, sales, market shares, profits, employment and utilization of production capacity.

The Tribunal holds a public hearing about 90 days after the commencement of the inquiry, usually starting once the CBSA has made a final determination of dumping or subsidizing. At the public hearing, domestic producers attempt to persuade the Tribunal that the dumping or subsidizing of goods has caused injury or retardation or is threatening to cause injury to a domestic industry. Importers and exporters challenge the domestic producers' case. After cross-examination by parties and questioning by the Tribunal,

each side has an opportunity to respond to the other's case and to summarize its own. In many inquiries, the Tribunal calls witnesses who are knowledgeable about the industry and market in question. Under certain circumstances, parties may seek the exclusion of certain goods from the effects of a Tribunal finding.

The Tribunal must issue its finding within 120 days from the date of the preliminary determination of dumping and/or subsidizing by the CBSA. It has an additional 15 days to issue a statement of reasons supporting its finding. A Tribunal finding of injury or retardation or threat of injury to a domestic industry is the legal authority for the CBSA to impose anti-dumping or countervailing duties.

Final Injury Inquiry Activities

Inquiry no.	NQ-2006-004	NQ-2007-001
Product	Disposable adult incontinence briefs	Seamless carbon or alloy steel oil and gas well casing
Country	France	China
Date of finding	June 20, 2007	March 10, 2008
Finding	No injury	Threat of injury
Questionnaires sent	52	58
Questionnaire responses received	46	49
Participants	6	14
Exhibits	300	432
Pages of official record	5,623	13,288
Public hearing days	3	5
Witnesses	7	16

Final Injury Inquiries Completed in the Fiscal Year

The Tribunal completed two final injury inquiries in the fiscal year. They concerned *Disposable Adult Incontinence Briefs* (NQ-2006-004) and *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (NQ-2007-001). In 2006, the estimated values of the Canadian market for these goods were, respectively, \$90 million and \$1.5 billion. The following summaries were prepared for general information purposes and have no legal status.

NQ-2006-004—Disposable Adult Incontinence Briefs

This inquiry concerned dumped imports from France.

In its investigation, the Tribunal sent detailed questionnaires to the sole known domestic producer, 16 of the largest importers, 4 foreign manufacturers of the subject goods in the named country and 31 purchasers of disposable adult incontinence briefs. Of the 52 questionnaires sent, 46 responses were received. There were 6 parties to the inquiry, with 7 witnesses appearing before the Tribunal during 3 days of public hearing. The official record consisted of 300 exhibits, totalling 5,623 pages of documents.

The Tribunal found that the subject goods had caused some injury to the domestic industry in the form of price depression and lost sales revenue. However, when assessed against total domestic production, as required by *SIMA*, and in view of the Tribunal's analysis of other relevant factors, any injury suffered by the domestic industry from the subject imports failed to meet the threshold of materiality. As for the threat of injury, the Tribunal found that, although imports had increased significantly in 2006 on a percentage basis, the volume was so small as to not constitute a threat. Moreover, the Tribunal did not find that the subject imports could sustain this rate of increase, given the limited excess capacity of the exporter in

France. Furthermore, the prices at which the subject goods were entering the Canadian market were not likely to have a significant depressing or suppressing effect on the prices of the like goods in the future. Therefore, the Tribunal concluded that the evidence did not indicate that the dumped goods posed a clearly foreseen and imminent threat of injury to the domestic industry.

NQ-2007-001—Seamless Carbon or Alloy Steel Oil and Gas Well Casing

This inquiry concerned dumped and subsidized imports from China.

In its investigation, the Tribunal sent detailed questionnaires to the 5 known domestic producers, 17 of the largest importers, 11 foreign manufacturers of the subject goods in the named country and 25 purchasers of seamless carbon or alloy steel oil and gas well casing. Of the 58 questionnaires sent, 49 responses were received. There were 14 parties to the inquiry, with 16 witnesses appearing before the Tribunal during 5 days of public hearing. The official record consisted of 432 exhibits, totalling 13,288 pages of documents.

The Tribunal first determined that electric resistance welded (ERW) oil and gas well casing was like goods to seamless oil and gas well casing. The Tribunal conducted its injury analysis on the basis that the domestically produced like goods included seamless and ERW oil and gas well casing.

The Tribunal found that the domestic industry had not suffered injury from 2004 to 2006, but had suffered injury during the January to September period of 2007, the last period covered by the Tribunal's period of inquiry. However, the injury suffered during that period was attributable to a decline in the apparent market and was not caused by the subject imports.

The Tribunal next considered whether the subject imports were threatening to cause injury. In the Tribunal's view, as the Canadian market for oil and gas well casing improved over the following 18 to 24 months, it would be an attractive destination for increasing volumes of the subject goods, which had already proven to be an acceptable alternative to domestic sources of supply. The expected increase in the volume of subject imports, combined with the evidence of price undercutting by the dumped and subsidized imports during 2006 and 2007, convinced the Tribunal that, in the absence of anti-dumping and countervailing duties, the subject imports would cause injury to the domestic industry. Consequently, the Tribunal found that the dumping and subsidizing of the subject goods were threatening to cause injury to the domestic industry.

Public Interest Inquiry Under Section 45 of SIMA

Following a finding of injury, the Tribunal notifies all interested parties that any submissions requesting a public interest inquiry must be filed within 45 days. It may initiate, either after a request from an interested person or on its own initiative, a public interest inquiry following a finding of injury caused by dumped or subsidized imports. It may decide that there are reasonable grounds to consider that the imposition of part or all of the duties may not be in the public interest. It then conducts a public interest inquiry pursuant to section 45 of *SIMA*. The result of this inquiry may be a report to the Minister of Finance recommending that the duties be reduced and by how much.

In Public Interest Inquiry No. PB-2006-001, *Copper Pipe Fittings*, following its injury finding of February 19, 2007 in Inquiry No. NQ-2006-002, the Tribunal, on May 14, 2007, issued its opinion that there were no reasonable grounds to consider that the imposition of an anti-dumping or countervailing duty, or the imposition of such a duty in the full amount, would not or might not be in the public interest. Accordingly, the Tribunal did not initiate a public interest inquiry into this matter.

Interim Reviews

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

An interim review may be warranted where there is a reasonable indication that new facts have arisen or that there has been a change in the circumstances that led to the finding or order. For example, since the finding or order, the domestic industry may have ceased production of like goods or foreign subsidies may have been terminated. An interim review may also be warranted where there are facts that, although in existence, were not put into evidence during the previous review or inquiry and were not discoverable by the exercise of reasonable diligence at that time.

Interim Review Activities

Interim review no.	RD-2006-005	RD-2006-006
Product	Fasteners	Carbon steel pipe nipples, threaded couplings and adaptor fittings
Country	China and Chinese Taipei	China
Date of order	May 11, 2007	June 8, 2007
Order	Findings continued	Finding amended
Participants	7	3
Exhibits	61	36
Pages of official record	473	284

Interim Reviews Completed in the Fiscal Year

The Tribunal completed two interim reviews in the fiscal year.

In Interim Review No. RD-2006-005, *Fasteners*, there were 7 parties. The official record consisted of 61 exhibits, totalling 473 pages of documents.

At issue in the interim review was a request to exclude certain screws. On May 11, 2007, the Tribunal determined that the exclusion of the screws in question would cause injury to the domestic industry. Therefore, the exclusion was not granted.

In Interim Review No. RD-2006-006, *Carbon Steel Pipe Nipples, Threaded Couplings and Adaptor Fittings*, there were 3 parties. The official record consisted of 36 exhibits, totalling 284 pages of documents.

At issue in the interim review was a request seeking the rescission of the finding as it related to pipe nipples and threaded couplings. On May 3, 2007, the Tribunal determined that an interim review was not warranted with respect to pipe nipples but that an interim review was warranted with respect to threaded couplings. On June 8, 2007, the Tribunal determined that, in the absence of domestic production of threaded couplings, the exclusion for threaded couplings could be granted without causing injury. The Tribunal amended its finding, made on July 16, 2003 in Inquiry No. NQ-2002-004, to exclude threaded couplings.

Expiries

Subsection 76.03(1) of *SIMA* provides that a finding or order expires after five years, unless an expiry review has been initiated. No later than 10 months before the expiry date of the order or finding, the Secretary publishes a notice of expiry in the *Canada Gazette*. The notice invites persons and governments to submit their views on whether the order or finding should be reviewed and gives direction on the issues that should be addressed in the submissions.

Expiry Activities

Expiry no.	LE-2006-003	LE-2007-001	LE-2007-002	LE-2007-003	LE-2007-004
Product	Hot-rolled carbon steel plate	Xanthates	Carbon steel pipe nipples and adaptor fittings	Structural tubing	Hot-rolled carbon steel plate and high-strength low-alloy steel plate
Country	China, South Africa and Russia	China	China	Korea, South Africa and Turkey	Bulgaria, Czech Republic and Romania
Date of order/notice of expiry review	April 25, 2007	June 20, 2007	October 31, 2007		
Decision	Expiry review initiated	Expiry review initiated	Expiry review initiated	In progress	In progress
Participants	7	3	1		
Pages of official record	329	696	108		

In 2007-2008, the Tribunal decided to commence expiry reviews in three cases.

On the basis of submissions from interested parties, the Tribunal was of the view that expiry reviews were warranted and initiated Expiry Review No. RR-2007-001 respecting *Hot-rolled Carbon Steel Plate*, Expiry Review No. RR-2007-002 respecting *Xanthates* and Expiry Review No. RR-2007-003 respecting *Carbon Steel Pipe Nipples and Adaptor Fittings*.

Consideration of Expiry No. LE-2007-003, *Structural Tubing*, and Expiry No. LE-2007-004, *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate*, was in progress at the end of the fiscal year.

Expiry Reviews

The Tribunal initiates a review of an order or finding, as requested, if it determines that such a review is warranted. It then issues a notice of review and notifies the CBSA of its decision. The notice of expiry review is published in the *Canada Gazette* and forwarded to all known interested parties. If the Tribunal determines that an expiry review is not warranted, it will issue an order with reasons for its decision.

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

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

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

Expiry Review Activities

Review no.	RR-2006-001	RR-2007-001	RR-2007-002	RR-2007-003
Product	Bicycles and frames	Hot-rolled carbon steel plate	Xanthates	Carbon steel pipe nipples and adaptor fittings
Country	Chinese Taipei and China	China, South Africa and Russia	China	China
Date of order	December 10, 2007	January 9, 2008	March 3, 2008	
Order	Order continued for bicycles Order rescinded for bicycle frames	Order continued for China Order rescinded for South Africa and Russia	Finding rescinded	In progress
Questionnaires sent ¹	334	61	56	
Questionnaire responses received ²	47	14	10	
Participants	12	4	3	
Exhibits	495	247	158	
Pages of official record	22,358	9,892	3,130	
Public hearing days	4	3	2	
Witnesses	15	7	8	

1. Expiry review questionnaires are sent to companies based on a comprehensive list of known domestic producers and to all potential importers and exporters for use by the CBSA and the Tribunal.
2. As in the case of final injury inquiries, the Tribunal focuses its questionnaire response follow-up on all known domestic producers and the largest importers that generally account for 80 percent or more of the subject imports during the period of review.

Expiry Reviews Completed in the Fiscal Year

In the fiscal year, the Tribunal completed three expiry reviews.

RR-2006-001—Bicycles and Frames

In its investigation, the Tribunal sent detailed questionnaires to the 8 known domestic producers, 167 of the largest importers and 159 foreign manufacturers of the subject goods in the named countries. Of the 334 questionnaires sent, 47 responses were received. There were 12 parties to the inquiry, with 15 witnesses appearing before the Tribunal during 4 days of public hearing. The official record consisted of 495 exhibits, totalling 22,358 pages of documents.

On December 10, 2007, the Tribunal continued its order made on December 9, 2002 in Expiry Review No. RR-2002-001 concerning bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Chinese Taipei and China, excluding bicycles with an FOB Chinese Taipei or China selling price exceeding CAN\$225 and excluding bicycles with foldable frames and stems, and rescinded its order concerning all bicycle frames originating in or exported from Chinese Taipei and China.

RR-2007-001—Hot-rolled Carbon Steel Plate

In its investigation, the Tribunal sent detailed questionnaires to the 2 known domestic producers, 13 of the largest importers and 46 foreign manufacturers of the subject goods in the named countries. Of the 61 questionnaires sent, 14 responses were received. There were 4 parties to the inquiry, with 7 witnesses appearing before the Tribunal during 3 days of public hearing. The official record consisted of 247 exhibits, totalling 9,892 pages of documents.

On January 9, 2008, the Tribunal continued its order made on January 10, 2003 in Expiry Review No. RR-2001-006 in respect of hot-rolled carbon steel plate originating in or exported from China and rescinded its order in respect of hot-rolled carbon steel plate originating in or exported from South Africa and Russia.

RR-2007-002—Xanthates

In its investigation, the Tribunal sent detailed questionnaires to the single known domestic producer, 17 of the largest importers and 38 foreign manufacturers of the subject goods in the named country. Of the 56 questionnaires sent, 10 responses were received. There were 3 parties to the inquiry, with 8 witnesses appearing before the Tribunal during 2 days of public hearing. The official record consisted of 158 exhibits, totalling 3,130 pages of documents.

On March 3, 2008, the Tribunal rescinded its finding made on March 4, 2003 in Inquiry No. NQ-2002-003 respecting dumped xanthates from China.

Expiry Reviews in Progress at the End of the Fiscal Year

There was one expiry review in progress at the end of the fiscal year.

RR-2007-003—Carbon Steel Pipe Nipples and Adaptor Fittings

This is a review of the finding made on July 16, 2003 in Inquiry No. NQ-2002-004, as amended on June 8, 2007 in Interim Review No. RD-2006-006, concerning carbon steel pipe nipples and adaptor fittings.

Judicial or Panel Review of SIMA Decisions

Regarding Inquiry No. NQ-2004-005, *Fasteners*, on March 21, 2006, the Federal Court of Appeal remanded the Tribunal's decision to deny the requests for product exclusions for patented stainless steel screws submitted by GRK Fasteners. On September 26, 2006, in Inquiry No. NQ-2004-005R, the Tribunal concluded that granting the exclusions would threaten to cause injury to the domestic industry and, therefore, denied the requests. On October 25, 2006, GRK Fasteners filed an appeal of the Tribunal's determination in Inquiry No. NQ-2004-005R before the Federal Court of Appeal.

Regarding Inquiry No. NQ-2005-001, *Unprocessed Grain Corn*, on June 5, 2007, the Federal Court of Appeal dismissed the application filed by the Ontario Corn Producers' Association, the Federation of Quebec Producers of Cash Crops and the Manitoba Corn Growers Association, Inc.

Tribunal Decisions Under Section 43, 44 or 76 of *SIMA* Before the Federal Court of Appeal

Case No.	Product	Country of Origin	File No./Status
NQ-2004-005R	Fasteners	China and Chinese Taipei	A—468—06
NQ-2005-001	Unprocessed grain corn	United States	A—267—06 Application dismissed (June 5, 2007)
Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.			

International Assistance

As a major player in Canada's trade remedies system, the Tribunal is often called upon to provide assistance to countries seeking to establish trade remedy systems or to countries negotiating to become members of the WTO. The Tribunal also participates in technical exchange meetings with other anti-dumping authorities. In 2007-2008, the Tribunal hosted a delegation from China. In addition, Tribunal members and staff provided training in China.

Presentations and Technical Exchanges by Members and Staff

Tribunal members and staff are also called upon to make presentations to various international, legal and administrative bodies. In 2007-2008, members and staff made presentations to the Canadian Bar Association, the annual conference of the Foundation of Administrative Justice, the Government Accountability Office in the United States, the Seoul International Forum on Trade Remedies, the WTO (Technical Group meetings) and students of the University of Ottawa's MBA Program.

SIMA Findings and Orders in Force as of March 31, 2008

Review No. or Inquiry No.	Date of Decision	Product	Country	Related Decision No. and Date
NQ-2002-004	July 16, 2003	Carbon steel pipe nipples, threaded couplings and adaptor fittings	China	
NQ-2003-001	December 23, 2003	Structural tubing	Korea, South Africa and Turkey	
NQ-2003-002	January 9, 2004	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Bulgaria, Czech Republic and Romania	
NQ-2003-003	June 18, 2004	Wood venetian blinds and slats	China and Mexico	
NQ-2004-001	July 30, 2004	Stainless steel wire	Korea, Switzerland, United States and India	
NQ-2004-005	January 7, 2005	Fasteners	China and Chinese Taipei	
NQ-2004-006	June 16, 2005	Laminate flooring	China and France	
NQ-2006-002	February 19, 2007	Copper pipe fittings	United States, Korea and China	
NQ-2007-001	March 10, 2008	Seamless carbon or alloy steel oil and gas well casing	China	
RR-2004-006	September 12, 2005	Whole potatoes	United States	RR-99-005 (September 13, 2000) RR-94-007 (September 14, 1995) RR-89-010 (September 14, 1990) CIT-16-85 (April 18, 1986) ADT-4-84 (June 4, 1984)
RR-2004-007	November 2, 2005	Refined sugar	United States, Denmark, Germany, Netherlands, United Kingdom and European Union	RR-99-006 (November 3, 2000) NQ-95-002 (November 6, 1995)
RR-2004-008	December 7, 2005	Waterproof footwear and bottoms	China	NQ-2000-004 (December 8, 2000)
RR-2005-002	August 16, 2006	Flat hot-rolled carbon and alloy steel sheet and strip	Brazil, China, Chinese Taipei, India, South Africa and Ukraine	NQ-2001-001 (August 17, 2001)
RR-2006-001	December 10, 2007	Bicycles and frames	Chinese Taipei and China	RR-2002-001 (December 9, 2002) RR-97-003 (December 10, 1997) NQ-92-002 (December 11, 1992)
RR-2007-001	January 9, 2008	Hot-rolled carbon steel plate	China, South Africa and Russia	RR-2001-006 (January 10, 2003) NQ-97-001 (October 27, 1997)

Note: For complete product descriptions, refer to the most recent finding or order available at www.citt-tcce.gc.ca.

CHAPTER IV

PROCUREMENT REVIEW

Introduction

Potential suppliers that believe that they may have been unfairly treated during a solicitation covered by one or all of *NAFTA*, the *AIT* or the *AGP* may file a formal complaint with the Tribunal. They are encouraged however to first attempt to resolve the issue with the government institution responsible for the procurement.

The Tribunal's role is to determine whether the government institution responsible for the procurement has observed the procurement procedures and other requirements specified in *NAFTA*, the *AIT* and the *AGP*.

When the Tribunal receives a complaint, it reviews the submission against the criteria for filing. If there are deficiencies, the complainant is given an opportunity to correct these within the specified time limit. If the Tribunal decides to conduct an inquiry, the government institution and all other interested parties are sent a formal notification of the complaint and a copy of the complaint itself. An official notice of the complaint is also published on MERX and in the *Canada Gazette*. If the contract in question has not been awarded, the Tribunal may order the government institution to postpone awarding any contract pending the disposition of the complaint by the Tribunal.

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

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

The Tribunal then determines whether the complaint is valid. If the complaint is found to be valid, the Tribunal may make recommendations for remedies, such as re-tendering, re-evaluating or providing compensation. The government institution, as well as all other parties and interested persons, is notified of the Tribunal's decision. Recommendations made by the Tribunal in its determination are, by statute, to be implemented to the greatest extent possible. The Tribunal may also award reasonable costs to the complainant or the responding government institution depending on the nature and circumstances of the case.

Procurement Complaints

Summary of Activities

	2006-2007	2007-2008
Number of Complaints		
Carried over from previous fiscal year	7	8
Received in fiscal year	53	95
Remanded	1	1
Total	61	104
Cases Resolved		
Withdrawn or resolved by the parties	3	4
Abandoned while filing	-	1
Subtotal	3	5
Inquiries Not Initiated		
Lack of jurisdiction	6	3
Late or improper filing	7	10
No valid basis/no reasonable indication of a breach/premature	14	45
Subtotal	27	58
Inquiry Results		
Complaints dismissed	3	2
Complaints not valid	6	6
Complaints valid or valid in part	13 ¹	13
Remand decisions	1	1
Inquiries ceased	0	1
Subtotal	23¹	23
Outstanding at End of Fiscal Year	8¹	18
1. Numbers changed due to reporting error in the 2006-2007 annual report.		

In 2007-2008, PWGSC issued approximately 17,200 contracts valued at between \$25,000 and \$400 million, for a total value of \$8.8 billion. The 95 complaints received in the fiscal year pertained to 91 different contracts, representing about 0.6 percent of the total number of contracts issued by PWGSC in 2007-2008.

Summary of Selected Determinations

During the fiscal year, the Tribunal issued 23 determinations of its findings and recommendations. In 13 of the 23 determinations, the complaints were determined to be valid or valid in part. Eighteen cases were still in progress at year-end. The table at the end of this chapter summarizes these activities.

Of the cases investigated by the Tribunal in carrying out its procurement review functions, certain decisions stand out because of their legal significance. Brief summaries of a representative sample of these cases are included below. These summaries have been prepared for general information purposes only and are of no legal effect.

PR-2007-009—Information Builders (Canada) Inc.

The Tribunal considered this case on the basis of written submissions. There were 3 parties to the inquiry. The official record consisted of 42 exhibits.

This was a complaint filed by Information Builders (Canada) Inc. (IBI) concerning a procurement by PWGSC on behalf of the Department of Indian Affairs and Northern Development for the provision of business intelligence software. IBI alleged that the use of limited tendering was a violation of the trade agreements. IBI submitted that PWGSC incorrectly dismissed information that it provided when it challenged the Advance Contract Award Notice.

The Tribunal was satisfied that, in the first instance, PWGSC gave some consideration to IBI's challenge, as it acknowledged the challenge and engaged in an exchange with the supplier. However, in the Tribunal's view, this exchange was ultimately inadequate and resulted in the denial of due process to IBI. Given that valid grounds for the government institution to utilize limited tendering procedures are narrowly defined in the trade agreements, the Tribunal considered that threshold for success in a challenge of this nature should be relatively low.

The Tribunal found that IBI's claim of being able to offer an alternative solution was sufficiently compelling to require that it be given consideration in a competitive environment. As such, the Tribunal determined that IBI's complaint was valid and recommended that PWGSC conduct a competitive procurement process, in accordance with the applicable trade agreements, for the requirement that was the subject of this complaint. The Tribunal also recommended that, should the competitive process result in a supplier other than Cognos Inc. prevailing, the current contract with Cognos Inc. be terminated and a new contract be awarded. Costs were awarded to IBI.

PR-2007-011—Surespan Construction Ltd.

The Tribunal considered this case on the basis of written submissions. The official record consisted of four exhibits.

This was a complaint filed by Surespan Construction Ltd. (Surespan) concerning a procurement by PWGSC for construction services. Surespan alleged that PWGSC improperly rejected its proposal because the front page of the Invitation to Tender was not signed. Surespan submitted that the requirement was not a mandatory condition or, if it was, the failure to sign was an insignificant omission of form that did not render its proposal non-compliant.

The Tribunal reviewed Surespan's submission and found no reasonable indication that the requirement was not mandatory or that Surespan met the substance of the obligation in another part of its proposal. Thus, the Tribunal was of the opinion that the complaint did not show that PWGSC failed to properly follow the terms of the Invitation to Tender when it declared Surespan's proposal non-compliant. As such, the Tribunal found that Surespan's complaint did not disclose a reasonable indication that the procurement was not conducted in accordance with the applicable trade agreements and decided not to conduct an inquiry.

The Tribunal's decision was challenged before the Federal Court of Appeal. That challenge was dismissed.

PR-2007-053 and PR-2007-054—Serco Facilities Management Inc.

The Tribunal considered these cases on the basis of written submissions. There were 2 parties to the inquiry. The official record consisted of 42 exhibits.

These were two complaints filed by Serco Facilities Management Inc. (Serco) that concerned the procurement by Defence Construction Canada (DCC) of construction services on behalf of the Department of National Defence. Serco submitted that its proposal was rejected by DCC's application of after-the-fact criteria that were not published in the solicitation materials.

The Tribunal considered that, since Serco had participated in the preparation of the solicitations in question and was expected to have an oversight role in the administration the contracts, this was enough to have allowed DCC to eliminate Serco as a potential bidder, as it would have created, at a minimum, a reasonable apprehension of bias on the part of DCC in relation to its evaluation of the bids. However, DCC did not follow the correct procedure to do this, in that the solicitation documents contained no specific provisions to indicate that a company in Serco's position could not be the successful bidder. As a government entity subject to the *AIT*, DCC is required to conduct itself in compliance with the requirements of the *AIT* relative to all bidders, including Serco.

The Tribunal found that DCC's decision to disqualify Serco was based on criteria that were not clearly identified in the solicitation documents and, therefore, that the complaints were valid.

The Tribunal awarded Serco its costs for filing the complaint, but did not recommend any further remedy. The Tribunal's decision has been challenged by DCC before the Federal Court of Appeal. A decision in that case is still pending.

Judicial Review of Procurement Decisions

Decisions Appealed to and/or Decided by the Federal Court of Appeal

File No.	Complainant at the Tribunal	Applicant before the Federal Court of Appeal	File No./Status
PR-2004-054R	Envoy Relocation Services	Attorney General of Canada	A—243—06 Application dismissed (May 3, 2007)
		Envoy Relocation Services	A—246—06 Application dismissed (May 3, 2007)
PR-2006-026	Canadian North Inc.	Bradley Air Services Limited (carrying on business under the trade name of First Air)	A—110—07 Application discontinued (October 5, 2007)
		Canadian North Inc.	A—95—07 Application discontinued (September 26, 2007)
		Attorney General of Canada	A—106—07 Application dismissed (November 20, 2007)
PR-2006-031	The Access to Information Agency Inc.	The Access to Information Agency Inc.	A—184—07 Application dismissed (January 18, 2008)
PR-2006-035	Zenix Engineering Ltd.	Defence Construction Canada	A—238—07 Application dismissed (March 31, 2008)

Decisions Appealed to and/or Decided by the Federal Court of Appeal (cont'd)

File No.	Complainant at the Tribunal	Applicant before the Federal Court of Appeal	File No./Status
PR-2006-039	Europe Displays, Inc.	Europe Displays, Inc.	A—88—07 Application dismissed (December 12, 2007)
PR-2006-045	Les Systèmes Equinox Inc.	Les Systèmes Equinox Inc.	A—128—07 Application allowed (January 29, 2008)
PR-2006-050	TPG Technology Consulting Ltd.	Attorney General of Canada TPG Technology Consulting Ltd.	A—336—07 A—343—07 A—193—07 Application allowed (September 18, 2007)
PR-2007-003	Ready John Inc.	Ready John Inc.	A—247—07 Application discontinued (October 1, 2007)
PR-2007-008	Northrop Grumman Overseas Services Corporation	Attorney General of Canada	A—310—07
	Northrop Grumman Overseas Services Corporation	Attorney General of Canada	A—398—07
	Northrop Grumman Overseas Services Corporation	Lockheed Martin Corporation	A—418—07
	Northrop Grumman Overseas Services Corporation	Northrop Grumman Overseas Services Corporation	A—424—07
PR-2007-010 and PR-2007-012	Bureau d'études stratégiques et techniques en économique	Bureau d'études stratégiques et techniques en économique Jean-Marc Bergevin	A—455—07 A—553—07 Application dismissed (March 19, 2008)
PR-2007-011	Surespan Construction Ltd.	Surespan Construction Ltd.	A—258—07 Application dismissed (February 12, 2008)
PR-2007-025	TPG Technology Consulting Limited	TPG Technology Consulting Limited CGI Group Inc.	A—518—07 Application discontinued (March 7, 2008) A—551—07 Application discontinued (March 13, 2008)
PR-2007-053 and PR-2007-054	Serco Facilities Management Inc.	Defence Construction Canada	A—32—08
PR-2007-060	TPG Technology Consulting Limited	CGI Group Inc.	A—506—07 Application discontinued (March 13, 2008)
PR-2007-070	Davis Pontiac Buick GMC (Medicine Hat) Ltd.	Attorney General of Canada	A—102—08
<p>Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.</p>			

Disposition of Procurement Complaints

File No.	Complainant	Status/Decision
PR-2006-026R	Canadian North Inc.	Complaint dismissed
PR-2006-045R	Les Systèmes Equinox Inc.	Remanded to the Tribunal
PR-2006-031	The Access Information Agency Inc.	Decision rendered on March 16, 2007 Complaint valid
PR-2006-035	Zenix Engineering Ltd.	Decision rendered on April 20, 2007 Complaint valid
PR-2006-041	Marathon Management Company	Decision rendered on April 26, 2007 Complaint not valid
PR-2006-042	EDS Canada Inc.	Decision rendered on May 1, 2007 Complaint dismissed
PR-2006-044	Chaussures Régence	Decision rendered on April 26, 2007 Complaint not valid
PR-2006-045	Les Systèmes Equinox Inc.	Decision rendered on June 20, 2007 Complaint valid
PR-2006-046	Acron Capability Engineering Inc.	Decision rendered on July 10, 2007 Complaint valid
PR-2006-049	BDMK Consultants Inc.	Decision rendered on June 11, 2007 Complaint valid
PR-2007-001	Chaussures Régence inc.	Decision not to conduct an inquiry, no jurisdiction
PR-2007-002	BSI Management Systems Canada Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-003	Ready John Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-004	Ecosfera Inc.	Decision rendered on July 11, 2007 Complaint valid
PR-2007-005	ArchiDATA Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-006	PSC The Public Sector Company Limited	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-007	Valcom Consulting Group Inc.	Decision rendered on June 20, 2007 Complaint not valid
PR-2007-008	Northrop Grumman Overseas Services Corporation	Decision rendered on August 30, 2007 Complaint valid in part
PR-2007-009	Information Builders (Canada) Inc.	Decision rendered on July 16, 2007 Complaint valid
PR-2007-010	Bureau d'études stratégiques et techniques en économique	Decision rendered on September 5, 2007 Complaint valid
PR-2007-011	Surespan Construction Ltd.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-012	Bureau d'études stratégiques et techniques en économique	Decision rendered on September 5, 2007 Complaint valid
PR-2007-013	Helicopter Engineers and Pilots Association, Canada	Decision not to conduct an inquiry, no jurisdiction
PR-2007-014	Script Services Corporation	Decision not to conduct an inquiry, late filing
PR-2007-015	Papp Plastics & Distributing Ltd.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-016	GlaxoSmithKline Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-017	Maxxam Analytics Inc.	Decision rendered on September 20, 2007 Complaint not valid
PR-2007-018	Intersources (9107-6364 Québec inc.)	Complaint withdrawn
PR-2007-019	Inforex Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2007-020	TPG Technology Consulting Ltd.	Decision rendered on August 30, 2007 Inquiry ceased
PR-2007-021	Trust Business Systems	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-022	Mega-Technical Holdings Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-023	Quantum Marine Ltd.	Decision not to conduct an inquiry, late filing
PR-2007-024	Les logiciels Lingua Technologies Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-025	TPG Technology Consulting Limited	Decision rendered on November 2, 2007 Complaint valid
PR-2007-026	1075773 Ontario Inc. operating as ctc TrainCanada	Decision not to conduct an inquiry, late filing
PR-2007-027	Mega-Technical Holdings Ltd.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-028	Papp Plastics & Distribution Limited	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-029	Quantum Marine Ltd.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-030	Serco Facilities Management Inc.	Decision not to conduct an inquiry, premature
PR-2007-031	GHK Group	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-032	Canadian Boat Works	Decision not to conduct an inquiry, no jurisdiction
PR-2007-033	TPG Technology Consulting Ltd.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-034	Trust Business Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-035	Trust Business Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-036	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-037	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-038	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-039	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-040	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-041	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-042	Trust Business Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-043	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-044	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-045	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-046	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-047	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-048	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-049	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-050	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-051	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-052	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-053	Serco Facilities Management Inc.	Decision rendered on December 18, 2007 Complaint valid
PR-2007-054	Serco Facilities Management Inc.	Decision rendered on December 18, 2007 Complaint valid
PR-2007-055	West Atlantic Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-056	IPSS Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2007-057	Barer Engineering International	Complaint withdrawn
PR-2007-058	Solartech Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-059	Gear Up Motors	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-060	TPG Technology Consulting Limited	Decision rendered on December 20, 2007 Complaint not valid
PR-2007-061	Tenaquip Limited	Decision rendered on December 18, 2007 Complaint not valid
PR-2007-062	CB Richard Ellis Quebec Ltd. c/o CBRE Ottawa in association with CBRE (Global)	Complaint withdrawn
PR-2007-063	West Atlantic Systems	Decision not to conduct an inquiry, late filing
PR-2007-064	Trust Business Systems	Decision not to conduct an inquiry, not a potential supplier
PR-2007-065	CB Richard Ellis Quebec Ltd. c/o CBRE Ottawa in association with CBRE (Global)	Decision not to conduct an inquiry, late filing
PR-2007-066	CB Richard Ellis Quebec Ltd. c/o CBRE Ottawa in association with CBRE (Global)	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-067	CMI Interlangues Inc.	Decision rendered on February 13, 2008 Complaint valid
PR-2007-068	Bureau d'études stratégiques et techniques en économique	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-069	ABCE Language School Inc.	Complaint withdrawn
PR-2007-070	Davis Pontiac Buick GMC (Medicine Hat) Ltd.	Accepted for inquiry, case in progress
PR-2007-071	NETGEAR, Inc.	Decision not to conduct an inquiry, late filing
PR-2007-072	OrthoCanada Medical Products (SVM) Orthopedic Solutions Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2007-073	Siva & Associates Inc.	Decision not to conduct an inquiry, late filing
PR-2007-074	Marathon Management Company	Abandoned after filing
PR-2007-075	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-076	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-077	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-078	NETGEAR, Inc.	Complaint dismissed
PR-2007-079	Immeubles Yvan Dumais Inc.	Accepted for inquiry, case in progress
PR-2007-080	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-081	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-082	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-083	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-084	Cifelli Systems Corporation	Accepted for inquiry, case in progress
PR-2007-085	Sandman Signature Hotel Toronto Airport	Decision not to conduct an inquiry, late filing
PR-2007-086	Electric Services Grand Centre Ltd.	Decision not to conduct an inquiry, late filing
PR-2007-087	Canadian Bio Services	Accepted for inquiry, case in progress
PR-2007-088	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-089	NETGEAR, Inc.	Decision not to conduct an inquiry, late filing
PR-2007-090	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-091	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-092	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-093	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-094	NETGEAR, Inc.	Accepted for inquiry, case in progress
PR-2007-095	Competition Composites Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach

CHAPTER V

APPEALS

Introduction

The Tribunal hears appeals from decisions of the CBSA under the *Customs Act* and *SIMA* or of the Minister of National Revenue under the *Excise Tax Act*. Appeals under the *Customs Act* relate to the origin, tariff classification, value for duty or marking of goods imported into Canada. Appeals under *SIMA* concern the application, to imported goods, of a Tribunal finding or order concerning dumping or subsidizing and the normal value, export price or subsidy of imported goods. Under the *Excise Tax Act*, a person may appeal the Minister of National Revenue's decision about an assessment or determination of federal sales tax or excise tax.

The Tribunal strives to be informal and accessible. However, there are certain procedures and time constraints that are imposed by law and by the *Rules*. For example, the appeal process is set in motion with a notice (or letter) of appeal, in writing, sent to the Secretary of the Tribunal within the time limit specified in the act under which the appeal is made.

Rules

Under the *Rules*, the person launching the appeal (the appellant) normally has 60 days to submit to the Tribunal a document called a "brief". Generally, the brief states under which act the appeal is launched, gives a description of the goods in issue and an indication of the points at issue between the appellant and the Minister of National Revenue or the CBSA (the respondent), and states why the appellant believes that the respondent's decision is incorrect. A copy of the brief must also be given to the respondent.

The respondent must also comply with time and procedural constraints. Normally, within 60 days after having received the appellant's brief, the respondent must provide the Tribunal and the appellant with a brief setting forth the respondent's position. The Secretary of the Tribunal then contacts both parties in order to schedule a hearing. Hearings are generally conducted before Tribunal members in public. The Tribunal publishes a notice of the hearing in the *Canada Gazette* to allow other interested persons to attend. Depending on the complexity and precedential nature of the matter at issue, appeals will be heard by a panel of one or three members. Persons may intervene in an appeal by specifying the nature of their interest in the appeal and by indicating the reason for intervening and how they may assist the Tribunal in the resolution of the appeal.

Hearings

An individual may present a case before the Tribunal in person, or be represented by counsel. The respondent is generally represented by counsel from the Department of Justice.

Hearing procedures are designed to ensure that the appellant and the respondent are given a full opportunity to make their cases. They also enable the Tribunal to have the best information possible to make a decision. As in a court, the appellant and the respondent can call witnesses, and these witnesses are questioned under oath or affirmation by the opposing parties, as well as by Tribunal members, in order to test the validity of their evidence. When all the evidence is gathered, parties may present arguments in support of their respective positions.

The Tribunal, on its own initiative or at the request of the appellant or the respondent, may decide to hold a hearing by way of written submissions. In that case, it publishes a notice of the hearing in the *Canada Gazette* to allow other interested persons to participate.

Usually, within 120 days of the hearing, the Tribunal issues a decision on the matters in dispute, including the reasons for its decision.

If the appellant, the respondent or an intervener disagrees with the Tribunal's decision, the decision can be appealed to the Federal Court of Appeal or the Federal Court.

Extensions of Time

Under section 60.2 of the *Customs Act*, a person may apply to the Tribunal for an extension of time to file a request for a re-determination or a further re-determination with the President of the CBSA. Such an application may be granted by the Tribunal after either the President has refused an application under section 60.1 or 90 days have elapsed after the application was made and the person has not been notified of the President's decision. Under section 67.1, a person may make an application to the Tribunal for an extension of time within which to file a notice of appeal with the Tribunal. During the fiscal year, the Tribunal issued four orders under the *Customs Act*, all of which granted extensions of time. There were no requests under the *Customs Act* that were outstanding at the end of the fiscal year.

Under section 81.32 of the *Excise Tax Act*, a person may apply to the Tribunal for an extension of time to serve a notice of objection with the Minister of National Revenue under section 81.15 or 81.17 or to file a notice of appeal with the Tribunal under section 81.19. During the fiscal year, the Tribunal issued one order under the *Excise Tax Act* granting an extension of time. There were no requests under the *Excise Tax Act* that were outstanding at the end of the fiscal year.

Appeals Considered

During the fiscal year, the Tribunal heard 25 appeals, of which 23 related to the *Customs Act* and 2 to the *Excise Tax Act*.

Decisions were issued in 23 cases, which included a decision that had been remanded to the Tribunal by the Federal Court of Appeal.

Disposition of Cases

Act	Allowed	Allowed in Part	Dismissed	Total
<i>Customs Act</i>	7	1	13	21
<i>Excise Tax Act</i>	-	-	2	2

Appeal Decisions Rendered in Fiscal Year

Appeal No.	Appellant	Date of Decision	Decision
<i>Customs Act</i>			
AP-2006-002	Western RV Coach Inc.	April 23, 2007	Appeal dismissed
AP-2006-022	N.C. Cameron & Sons Ltd.	June 14, 2007	Appeal dismissed
AP-2005-041	IPSCO Inc.	June 21, 2007	Appeal dismissed
AP-2006-034	Tai Lung (Canada) Ltd.	July 25, 2007	Appeal allowed
AP-2006-042	New Asia (Brampton) Food Centre (2002) Inc.	July 31, 2007	Appeal allowed
AP-2006-035	Tiffany Woodworth	September 11, 2007	Appeal dismissed
AP-2006-050	Eric Shenker	September 17, 2007	Appeal dismissed
AP-2006-005	MRP Retail Inc.	September 27, 2007	Appeal allowed
AP-2006-016 and AP-2006-018	Pelco Worldwide Headquarters	September 27, 2007	Appeals dismissed
AP-2005-035	Panasonic Canada Inc.	October 19, 2007	Appeal dismissed
AP-2006-038	Canadian Tire Corporation Limited	November 2, 2007	Appeal allowed
AP-2006-004	Groupe Cabico Inc.	November 21, 2007	Appeal allowed
AP-2006-041	Canadian Tire Corporation Limited	November 29, 2007	Appeal dismissed
AP-2006-052	Scott Arthur	January 30, 2008	Appeal dismissed
AP-2006-057	Allen Zerr	January 30, 2008	Appeal dismissed
AP-2006-059	Terry Shannon	January 30, 2008	Appeal dismissed
AP-2004-018R	Gladu Tools Inc.	February 12, 2008	Appeal allowed in part
AP-2006-048	The Pampered Chef, Canada Corporation	February 13, 2008	Appeal allowed
AP-2006-033	Rona Corporation Inc.	February 29, 2008	Appeal allowed
AP-2006-053	Spectra/Premium Industries Inc.	March 26, 2008	Appeal dismissed
<i>Excise Tax Act</i>			
AP-2006-036 and AP-2006-037	Location Robert Ltée and Transport Robert (1973) Ltée	February 13, 2008	Appeals dismissed

Summary of Selected Decisions

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

AP-2006-002—Western RV Coach Inc. v. President of the Canada Border Services Agency

As part of its appeal process, the Tribunal held a one-day public hearing. There were 2 parties to the appeal, and one witness appeared before the Tribunal. The official record consisted of 49 exhibits.

This was an appeal under subsection 67(1) of the *Customs Act* from a decision of the CBSA. The two issues in this appeal were whether a used 1995 Royale Coach motor home (the good in issue), imported by Western RV Coach Inc. (Western) from the United States, was entitled to preferential tariff treatment under *NAFTA* and whether the legislation implementing *NAFTA*'s preferential tariff provisions violated the rights conferred by section 7, 11 or 12 or subsection 15(1) of the *Canadian Charter of Rights and Freedoms* and, if it did, whether the violation was justified under section 1 of the *Canadian Charter of Rights and Freedoms*.

The Tribunal noted that, in order for the good in issue to be imported into Canada at the preferential tariff rate, the importer had to satisfy certain requirements, one of which was that component parts and traced materials had to meet the proof-of-origin requirement in the *NAFTA Rules of Origin Regulations*. In this appeal, the producer refused to certify the good in issue and declined to submit supporting documentation for the preferential treatment. Due to inadequate evidence, the Tribunal was therefore not satisfied that Western met the prescribed conditions stipulated in section 15 of the *NAFTA Rules of Origin Regulations* or that reliance might be placed on similar goods, and it therefore concluded that the good in issue did not meet the statutory proof-of-origin requirement for preferential tariff treatment.

The Tribunal found that the rights recognized in sections 7 and 12 and subsection 15(1) of the *Canadian Charter of Rights and Freedoms* applied only to individuals, not corporations. The Tribunal noted that the protection guaranteed by paragraph 11d) of the *Canadian Charter of Rights and Freedoms* applied only where a person had been charged with an offence. It was clear to the Tribunal that neither Western nor its principals had been charged with an offence, and this argument therefore also failed. Hence, there was no need for the Tribunal to consider whether any alleged limitations imposed by the legislation were justifiable under section 1 of the *Canadian Charter of Rights and Freedoms*. The Tribunal therefore determined that the *NAFTA* implementation legislation did not violate any right under the *Canadian Charter of Rights and Freedoms*. Accordingly, the appeal was dismissed.

AP-2006-048—*The Pampered Chef, Canada Corporation v. President of the Canada Border Services Agency*

As part of its appeal process, the Tribunal held a two-day public hearing. There were 2 parties to the appeal, and three witnesses appeared before the Tribunal. The official record consisted of 43 exhibits.

This was an appeal under section 67 of the *Customs Act* from a decision of the CBSA, pursuant to subsection 60(4), concerning the value for duty of goods imported by The Pampered Chef, Canada Corporation (Pampered Chef Canada) from The Pampered Chef, Ltd. (Pampered Chef U.S.A.) under a national customs ruling. The first issue was the determination of which transaction constituted the sale for export within the meaning of subsection 48(1). The second issue was whether commissions paid to the consultants should be added to the pre-adjustment value, under subsection 48(5).

The Tribunal was convinced that the sale for export was the sale from Pampered Chef U.S.A. to Pampered Chef Canada and that Pampered Chef Canada met the test of a purchaser in Canada. However, the role played by the consultant was that of a facilitator, for which he or she was paid a commission, not that of one who bought the imported goods on his or her own account and then later resold them for a profit. Pampered Chef Canada sold goods to customers in Canada, as evidenced by order forms used at the parties and by payments that were either sent to Pampered Chef Canada directly or deposited by the consultant in an account to which the company had access, thereby satisfying the “carrying on business in Canada” test established by the Federal Court of Appeal.

In the Tribunal’s opinion, the commissions paid to the consultant should not have been added to the invoiced value of the goods because the context of subsection 48(5) of the *Customs Act* makes clear that this requirement related to the sale for export, i.e. the related-company transfer, not some subsequent sale within Canada. Accordingly, the appeal was allowed.

AP-2006-036 and AP-2006-037—Location Robert Ltée and Transport Robert (1973) Ltée v. Minister of National Revenue

As part of its appeal process, the Tribunal held a one-day public hearing. There were 3 parties to the appeal, and three witnesses appeared before the Tribunal. The official record consisted of 27 exhibits (AP-2006-036) and 28 exhibits (AP-2006-037).

These were appeals under section 81.19 of the *Excise Tax Act* from decisions of the Minister of National Revenue (the Minister). The issue in these appeals was whether the appellants were entitled to a refund of excise tax paid on the portion of diesel fuel purchased in Canada but used in vehicles for the transportation of goods outside the country, despite the fact that the applications were not submitted to the Minister within two years of the export of the diesel fuel, as prescribed in subsection 68.1(1) of the *Excise Tax Act*, and on or before the deadline of February 17, 2003, as prescribed in subsection 63(2) of the *Budget Implementation Act, 2003*.

The Tribunal relied upon a number of previous cases of the Supreme Court of Canada in which the court confirmed that the presumption against retroactivity or interference with vested rights could be rebutted by the express words of the statute or by necessary implication. According to the Tribunal, the *Budget Implementation Act, 2003* expressly amended section 68.1 of the *Excise Tax Act* and explicitly stated that the amendment applied “. . . in respect of any application for a payment under section 68.1 of the Act received by the Minister of National Revenue after February 17, 2003”. As such, the Tribunal held that the legislator intended the *Budget Implementation Act, 2003* to be retroactive to the date of the Budget announcement and to affect expectations (or rights) to a refund if the application was received by the Minister after the deadline of February 17, 2003. In the Tribunal’s opinion, it was clear that this date was an implementation date rather than a limitation period, as suggested by the appellants.

The Tribunal therefore found that subsection 63(2) of the *Budget Implementation Act, 2003* had the effect of extinguishing any right to a refund that might have existed on or before February 17, 2003 and that, by this simple fact, the Canada Revenue Agency had no authority to grant the refund requested by the appellants. Accordingly, the appeals were dismissed.

Appeal Cases Before the Federal Court of Appeal or the Federal Court

Appeal No.	Appellant at the Tribunal	Appellant before the Court	File No./Status
AP-2000-014	Asia Pacific Enterprises Corporation	Asia Pacific Enterprises Corporation	A—436—06 Appeal discontinued (June 15, 2007)
AP-2002-007	King West Communications Inc.	King West Communications Inc.	T—1335—03
AP-2002-008	The Russo Group Inc.	The Russo Group Inc.	T—1332—03
AP-2002-034 to AP-2002-037	Pierre Roy et Associés Inc. for Lithochrome (1974) Inc. (in Bankruptcy), Le Groupe Lithochrome Inc. (in Bankruptcy), Filmographie P.F. Inc. (in Bankruptcy) and Opticouleur Inc. (in Bankruptcy)	Pierre Roy et Associés Inc. for Lithochrome (1974) Inc. (in Bankruptcy), Le Groupe Lithochrome Inc. (in Bankruptcy), Filmographie P.F. Inc. (in Bankruptcy) and Opticouleur Inc. (in Bankruptcy)	T—1134—05
AP-2004-009	Cherry Stix Ltd.	Cherry Stix Ltd.	A—607—05 Appeal dismissed (September 4, 2007)
AP-2004-017	3319067 Canada Inc. (Universal Lites)	3319067 Canada Inc. (Universal Lites)	A—264—06 Appeal dismissed (June 21, 2007)
AP-2004-018	Outils Gladu Ltée	President of the Canada Border Services Agency	A—594—05 Appeal allowed (May 31, 2007)
AP-2005-005, AP-2005-010, AP-2005-011 and AP-2005-020	Arctic Cat Sales Inc.	Arctic Cat Sales Inc.	A—166—06 Appeal dismissed (September 5, 2007)
AP-2005-006	Jam Industries Ltd.	Jam Industries Ltd.	A—245—06 Appeal dismissed (May 31, 2007)
AP-2005-027	Les Huiles Thuot et Beauchemin Inc.	Les Huiles Thuot et Beauchemin Inc.	T—618—06
AP-2005-035	Panasonic Canada Inc.	Panasonic Canada Inc.	A—571—07
AP-2005-053	Ferragamo U.S.A. Ltd.	President of the Canada Border Services Agency	A—268—07 Appeal discontinued (October 26, 2007)
AP-2006-009	Innovak DIY Products Inc.	Innovak DIY Products Inc.	A—31—07 Appeal dismissed (December 14, 2007)
AP-2006-018	Pelco Worldwide Headquarters	Pelco Worldwide Headquarters	A—572—07
AP-2006-041	Canadian Tire Corporation Limited	Canadian Tire Corporation Limited	A—570—07
Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.			

CHAPTER VI

STANDING TEXTILE REFERENCE

Pursuant to a reference from the Minister of Finance dated July 6, 1994, as last amended on October 27, 2005, the Tribunal is directed to investigate requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and to make recommendations, in respect of those requests to the Minister of Finance, that would maximize net economic gains to Canada.

The terms of reference call for the Tribunal to report annually to the Minister of Finance on the investigation process. This chapter reports on the Tribunal's activities under the textile reference.

Scope of the Reference

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

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

Types of Relief Available

The tariff relief that may be recommended by the Tribunal to the Minister of Finance ranges from the removal or reduction of tariffs on one or several, partial or complete, tariff lines, textile- and/or end-use-specific tariff provisions. Except in exceptional circumstances, recommendations are not to include a gender-specific "end use". The recommendation could be for tariff relief for either a specific or an indeterminate period of time.

Process

Domestic producers seeking tariff relief must file a request with the Tribunal. Along with their request, producers must file either samples of the textile input for which tariff relief is being sought or a National Customs Ruling from the CBSA covering the input. If the Tribunal determines that the request is properly documented, it will conduct an investigation to determine if it should recommend tariff relief.

Filing and Notification of a Request

Upon receipt of a request for tariff relief, and before commencement of an investigation, the Tribunal issues a brief electronic notice on its Web site announcing the request. The minimum period of time for the notification of a request before the start of an investigation is 30 days.

This notification is designed to increase transparency, identify potential deficiencies in the request, avoid unnecessary investigations, provide an opportunity for the domestic textile industry to contact the requester and agree on a reasonable domestic source of supply, inform other users of identical or substitutable textile inputs, prepare the domestic industry to respond to subsequent investigation questionnaires and give associations advance time for planning and consultation with their members.

Investigations

When the Tribunal is satisfied that a request is properly documented, it commences an investigation. A notice of commencement of investigation is sent to the requester, all known interested parties and any appropriate government department or agency, such as the Department of Foreign Affairs and International Trade, the Department of Industry, the Department of Finance and the CBSA. The notice is also published in the *Canada Gazette*.

Interested parties include all persons whose rights or pecuniary interests may be affected by the Tribunal's recommendations. Interested parties are given notice of the request and can participate in the investigation.

To prepare a staff investigation report, the Tribunal's staff gathers information through such means as questionnaires and plant visits. Information is obtained from the requester and interested parties to determine whether the tariff relief sought will maximize net economic gains for Canada.

In most cases, a public hearing is not required, and the Tribunal will dispose of the matter on the basis of the written submissions, including the request, the staff investigation report and all submissions and evidence filed with the Tribunal. In cases where the written record is not sufficient to dispose of the matter, a public hearing is held.

The procedures for the conduct of the Tribunal's investigation envisage the full participation of the requester and all interested parties. A party, other than the requester, may file submissions, including evidence, in response to the properly documented request, the staff investigation report and any information provided by a government department or agency. The requester may subsequently file submissions with the Tribunal in response to the staff investigation report and any information provided by a government department, agency or other party.

Recommendations to the Minister of Finance

The Tribunal will normally issue its recommendations, with reasons, to the Minister of Finance within 120 days from the date of commencement of the investigation. In exceptional cases, where the Tribunal determines that critical circumstances exist, it will issue its recommendations within an earlier specified time frame.

Request for Review

Where the Minister of Finance has made an order for tariff relief pursuant to a recommendation of the Tribunal, certain domestic producers may ask the Tribunal to commence an investigation for the purpose of recommending the renewal, amendment or termination of the order. A request for the amendment or termination of the order should specify what changed circumstances justify the request.

Review on Expiry

Where the Minister of Finance has made an order for tariff relief subject to a scheduled expiry date, the Tribunal will, before the expiry date, issue a formal notice that the tariff relief provided by the order will expire unless the Tribunal issues a recommendation that tariff relief should be continued and the Minister of Finance implements the recommendation. The notice invites interested parties to file submissions for or against continuation of tariff relief.

Summary of Activities

New Requests

	2006-2007	2007-2008
Requests		
Received	2	7
Withdrawn	0	1
Awaiting initiation of investigation	0	2
Investigations completed during the year	1	4
Investigations in progress at year-end	1	1
Recommendations to Minister of Finance		
Tariff relief	1	4
No tariff relief	0	0
Reports to Minister of Finance	1	4
Cumulative totals (since 1994)		
Requests received	177	184
Recommendations to Minister of Finance		
Tariff relief	106	110
No tariff relief	49	49

During the fiscal year, the Tribunal received seven requests for tariff relief and initiated three investigations. One request was withdrawn. The Tribunal issued four reports to the Minister of Finance, one of which dealt with an investigation that was initiated in the previous fiscal year. One investigation was in progress at the end of the fiscal year, and two requests were under investigation.

Disposition of Requests

Request No.	Requester	Textile Input	Date of Disposition	Status/Recommendations
TR-2006-002	Tricots Liesse (1983) Inc.	Yarn	August 27, 2007	Indeterminate tariff relief
TR-2007-001	Peerless Clothing Inc.	Nonwoven	November 6, 2007	Indeterminate tariff relief
TR-2007-002	Korhani Manufacture Inc.	Yarn	February 25, 2008	Indeterminate tariff relief
TR-2007-003	Peerless Clothing Inc.	Fabric	February 5, 2008	Indeterminate tariff relief
TR-2007-004	St. Geneve	Fabric	February 18, 2008	Request withdrawn
TR-2007-005	Canadian Association of Technical Outerwear Manufacturers	Fabric		In progress
TR-2007-006	Peerless Clothing Inc.	Fabric		Under consideration
TR-2007-007	Le Château	Fabric		Under consideration

Effects

The implementation of Tribunal recommendations is made by adding new tariff items to the *Customs Tariff* or, occasionally, by issuing specific customs duty remission orders. The table at the end of this chapter provides a list of the recommendations implemented by the Government as of December 31, 2007.

It should be noted that some of the tariff items in the list differ from the tariff items as they were originally enacted to give effect to the Tribunal's recommendations under the standing textile reference. First, on November 21, 2005, as part of its implementation of the recommendations made by the Tribunal in Reference No. MN-2004-002, the Government put in place a new tariff structure that created a number of duty-free tariff items. In instances where these broader duty-free tariff items covered products that were already provided duty-free treatment by individual tariff items implemented under the standing textile reference, the latter individual tariff items were deleted from the *Customs Tariff*. Second, on December 13, 2006, at the same time as it implemented the Tribunal's recommendations in Reference No. MN-2005-001, the Government further modified the tariff structure to eliminate additional tariff items and to amend the existing wording to remove additional gender-specific or product-specific end use requirements. Third, amendments to the *Customs Tariff* came into effect on January 1, 2007 to implement updates to the *Harmonized Commodity Description and Coding System* by the World Customs Organization.

For the period from January 1 to December 31, 2007, the Tribunal estimates that the tariff items listed in the table at the end of this chapter covered imports worth about \$248 million and provided tariff relief worth about \$25.4 million. For the comparable period in 2006, these amounts were about \$283 million and about \$28.5 million respectively. The decrease in the value of tariff relief in 2007 is reflective of the smaller value of imports.

As stated earlier, textile inputs on which tariff relief may be requested are limited to 12 chapters of the *Customs Tariff*. From January 1 to December 31, 2007, tariff relief principally affected textile inputs falling in three chapters: Chapter 51 ("Wool, fine or coarse animal hair; horsehair yarn and woven fabric"); Chapter 52 ("Cotton") and Chapter 54 ("Man-made filaments"). The percentage of total imports accounted for by the imports benefiting from tariff relief, falling in these 12 chapters, ranged from 0 to 50.3 percent. Overall, approximately 1 percent of total imports falling in the 12 chapters benefit from tariff relief. The following table provides, for calendar year 2007, a distribution of the imports benefiting from tariff relief, by *Customs Tariff* chapter.

Percentage of Imports Benefiting from Tariff Relief by Customs Tariff Chapter

Chapter	Description	Percentage
39	Plastic and articles thereof	0.0
40	Rubber and articles thereof	0.0
51	Wool, fine or course animal hair	50.3
52	Cotton	13.8
53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn	6.7
54	Man-made filaments	12.4
55	Man-made staple fibres	6.2
56	Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof	1.0
58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery	1.5
59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use	4.2
60	Knitted or crocheted fabrics	1.3
70	Glass and glassware	0.1
Weighted average		<u>1.03</u>

Source: Statistics Canada.

Summary of Recommendations

A summary of the Tribunal's recommendations issued during the fiscal year follows.

TR-2006-002—Tricots Liesse (1983) Inc.

In its investigation, the Tribunal sent 11 questionnaires to domestic producers and users and/or importers of the subject textile input. Of the 11 questionnaires sent, 6 responses were received. The Tribunal held a file hearing, and there were 4 parties to the investigation. The official record consisted of 56 exhibits, totalling 712 pages of documents.

The Tribunal recommended to the Minister of Finance that tariff relief be granted, for an indeterminate period of time, on importations from all countries of single yarn solely of artificial staple fibres other than acetate fibres, or mixed solely with 15 percent or less by weight of any natural fibre, measuring less than 210 decitex, of subheading No. 5510.11, and single yarn containing 50 percent or more by weight of artificial staple fibres other than acetate fibres, mixed solely with cotton fibres, measuring less than 210 decitex, of subheading No. 5510.30, for use in the manufacture of circular knitted apparel fabrics (the subject yarn).

Tricots Liesse (1983) Inc. (Liesse) requested the tariff relief. Two yarn producers, FilSpec Inc. (FilSpec) and Régitex Inc. (Régitex) opposed the request. Two other yarn producers, Atlantic Yarns Inc. and Atlantic Fine Yarns Inc. (Atlantic), objected to the request for tariff relief on the subject yarn on the basis of the breadth of coverage of subheading Nos. 5510.11 and 5510.30, but did not object to the granting of relief for the specific yarns listed in request and imported during the inquiry period.

The Tribunal concluded that Régitex and Atlantic had not demonstrated that they would be able, in the foreseeable future, to supply Liesse and other potential buyers with yarns that were identical to or substitutable for the subject yarn.

The Tribunal noted that FilSpec had sold certain quantities of yarn to Liesse. However, the Tribunal was of the view that, even in the absence of tariff relief, Liesse would not shift more of its purchases to FilSpec unless FilSpec were able to offer yarns at competitive prices. The Tribunal also noted that FilSpec's sales of alleged identical or substitutable yarns did not represent a significant portion of its total company sales of yarn. Furthermore, these sales included sales of yarn to companies not involved in circular knitting. Therefore, the Tribunal was of the view that any potential risk to FilSpec was minimal.

The Tribunal concluded that tariff relief would result in yearly benefits to users of these yarns in excess of \$125,000.

TR-2007-001—Peerless Clothing Inc.

In its investigation, the Tribunal sent 19 questionnaires to domestic producers and users and/or importers of the subject textile input. Of the 19 questionnaires sent, 6 responses were received. The Tribunal held a file hearing, and there were 4 parties to the investigation. The official record consisted of 46 exhibits, totalling 707 pages of documents.

The Tribunal recommended to the Minister of Finance that tariff relief be granted, for an indeterminate period of time, on importations from all countries of nonwovens of polyester staple fibres mixed solely with viscose rayon staple fibres, impregnated with a bonding agent of acrylic polymer, weighing more than 70 g/m² but not more than 100 g/m², of tariff item No. 5603.93.90, for use in the manufacture of shoulder pads used in the manufacture of suit jackets, jackets (sportcoats) and blazers (the subject nonwovens).

Peerless Clothing Inc. (Peerless) requested the tariff relief. Two domestic producers of nonwovens, Fybon Industries Ltd. (Fybon) and Matador Converters Co., Ltd. (Matador), opposed the request. A third producer of nonwovens, Texel Inc. (Texel), opposed the request with respect to the subject nonwovens weighing more than 100 g/m².

The Tribunal noted that the sample provided by Fybon failed to meet the definition of the subject nonwovens, in that it was composed of different fibres and had a different coating. Fybon failed to provide any additional information to convince the Tribunal that it had the capability to produce identical or substitutable nonwovens and to sell them to apparel producers.

Although Matador opposed Peerless's request, it provided no evidence that it had the capability to produce identical or substitutable nonwovens.

Since Texel did not oppose Peerless's request with respect to the subject nonwovens weighing less than 100 g/m², the Tribunal concluded that Texel did not produce an identical or substitutable product in that weight range. However, the Tribunal accepted Texel's view that tariff relief on importations of the subject nonwovens weighing more than 100 g/m² would put its sales at risk.

The Tribunal concluded that tariff relief would result in yearly benefits to users of the subject nonwovens in excess of \$50,000.

TR-2007-002—Korhani Manufacture Inc.

In its investigation, the Tribunal sent 10 questionnaires to domestic producers and users and/or importers of the subject textile input. Of the 10 questionnaires sent, 2 responses were received. The Tribunal held a file hearing, and there were 3 parties to the investigation. The official record consisted of 46 exhibits, totalling 411 pages of documents.

The Tribunal recommended to the Minister of Finance that tariff relief be granted for an indeterminate period of time, on importations from all countries of multifilament single yarn, solely of polypropylene, textured, fully drawn, with an “S” twist exceeding 50 turns per metre, measuring 1,680 decitex or more but not exceeding 3,215 decitex, of tariff item No. 5402.34.00, for use in the manufacture of area rugs (the subject yarn).

Korhani Manufacture Inc. (Korhani) requested the tariff relief. Seaway Yarns Inc. (Seaway), a domestic yarn producer, submitted that it did not object to tariff relief for what it described as the “input (base or single)” yarn. Seaway requested three changes to the description of the subject yarn. First, Seaway requested that the term “textured” be removed and replaced with the name of the specific type of texturing process used to produce the subject yarn. Second, Seaway requested that the term “heat-set” be included. Finally, Seaway submitted that including only the single yarn size was insufficient.

The Tribunal noted that none of the samples submitted by Seaway met the description of the subject yarn, with two of the samples being of a different fibre. Seaway provided no other evidence to support its submission that it could produce a virtually identical yarn, and the Tribunal concluded that Seaway did not produce a yarn identical to or substitutable for the subject yarn.

The Tribunal noted that the term “heat-set” had been excluded from the definition of the subject yarn because the CBSA had indicated that it was not aware of any test that could determine if yarn had been heat-set. Likewise, the CBSA indicated that it would be difficult to conduct tests to differentiate among texturing processes.

However, the Tribunal accepted Seaway’s request to restrict the subject yarn to multifilament single yarn. The Tribunal considered that describing the subject yarn as “multifilament single yarn” was more consistent with the products described and submitted for review by Korhani, which were single yarns.

The Tribunal concluded that tariff relief would result in yearly benefits to users of the subject yarn in excess of \$25,000.

TR-2007-003—Peerless Clothing Inc.

In its investigation, the Tribunal sent 16 questionnaires to domestic producers and users and/or importers of the subject textile input. Of the 16 questionnaires sent, 2 responses were received. The Tribunal held a file hearing, and 1 party participated in the investigation. The official record consisted of 30 exhibits, totalling 366 pages of documents.

The Tribunal recommended to the Minister of Finance that tariff relief be granted for an indeterminate period of time, on importations from all countries of woven fabrics, with or without backing, solely of yarns of textured polyester filaments, of a weight not exceeding 225 g/m², of tariff item No. 5407.52.90, for use as facing or braids in the manufacture of tuxedos.

Peerless requested the tariff relief. No domestic fabric producers contested Peerless's claim that there was no domestic production of identical or substitutable fabrics.

The Tribunal concluded that tariff relief would result in yearly benefits to users of these fabrics in excess of \$25,000.

Tariff Relief Recommendations in Place

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2007
TR-94-001		Canatex Industries (Division of Richelieu Knitting Inc.)	5402.45.00 ³
TR-94-004		Woods Canada Limited	5208.52.10
TR-94-010		Palliser Furniture Ltd.	5806.20.10
TR-94-012		Peerless Clothing Inc.	5309.29.30 ¹
TR-94-013 and TR-94-016		MWG Apparel Corp.	5208.42.91 ¹ 5208.43.70 ¹ 5208.49.91 ¹ 5513.31.20 ¹ 5513.39.11 ³ 5513.33.20 ¹
TR-94-017 and TR-94-018		Elite Counter & Supplies	9943.00.00
TR-95-003		Landes Canada Inc.	5603.11.20 5603.12.20 5603.13.20 5603.14.20 5603.91.20 5603.92.20 5603.93.20 5603.94.20
TR-95-004		Lingerie Bright Sleepwear (1991) Inc.	5208.12.20 ² 5208.52.20 ²
TR-95-005		Lingerie Bright Sleepwear (1991) Inc.	5513.11.91 ¹ 5513.41.10 ²
TR-95-009		Peerless Clothing Inc.	5408.21.40 ¹ 5408.22.23 ¹ 5408.22.91 ¹
TR-95-010 and TR-95-034		Freed & Freed International Ltd. and Fen-nelli Fashions Inc.	5111.19.10 5111.19.20
TR-95-011		Louben Sportswear Inc.	5408.31.40 ¹ 5408.32.60 ¹
TR-95-012		Perfect Dyeing Canada Inc.	5509.32.10
TR-95-013A		Doubletex	5208.11.00 ¹ 5208.12.40 5208.13.20 5208.19.30 5208.21.40 5208.22.20 5208.23.10 5208.29.20 5209.11.30 5209.12.20 5209.19.30 5209.21.20 5209.22.10 5209.29.20
TR-95-036		Canadian Mill Supply Co. Ltd.	5208.21.20

Tariff Relief Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2007
TR-95-037		Paris Star Knitting Mills Inc.	5408.24.12 ¹ 5408.24.92 ¹ 5408.34.30 ¹ 5516.14.20 ¹ 5516.24.10 ²
TR-95-051		Camp Mate Limited	5407.41.10 5407.42.10 5407.42.20 5903.20.22
TR-95-053 and TR-95-059		Majestic Industries (Canada) Ltd. and Caulfeild Apparel Group Ltd.	5802.11.20 ¹ 5802.19.40 ¹
TR-95-056		Sealy Canada Ltd.	3921.19.20 5407.69.30 5407.73.10 5407.94.10 5516.23.10 5903.90.21 6005.34.20
TR-95-057 and TR-95-058		Doubletex	5407.51.10 5407.61.96 5407.69.10 5515.11.10 5516.21.10 5516.91.10
TR-95-060		Triple M Fiberglass Mfg. Ltd.	7019.59.10
TR-95-061		Camp Mate Limited	6005.31.20 6005.32.20 6005.33.20 6005.34.30
TR-95-064 and TR-95-065		Lady Americana Sleep Products Inc. and el ran Furniture Ltd.	6005.34.60 6005.44.20
TR-96-003		Venture III Industries Inc.	5407.61.95 ²
TR-96-004		Acton International Inc.	5906.99.21
TR-97-001		Jones Apparel Group Canada Inc.	5407.91.10 ² 5407.92.20 ² 5407.93.10 ² 5408.21.40 ¹ 5408.22.91 ¹ 5408.23.91 ¹ 5408.31.40 ¹ 5408.32.60 ¹ 5408.33.30 ¹
TR-97-002 and TR-97-003		Universal Manufacturing Inc.	5208.43.70 ¹ 5513.41.20 ²
TR-97-006		Peerless Clothing Inc.	5407.51.30 ² 5903.90.22 ² 5903.90.23 ² 5903.90.24 ² 6005.31.30 ² 6005.31.40 ² 6005.32.30 ² 6005.32.40 ² 6005.33.91 ¹ 6005.34.40 ² 6005.34.50 ²

Tariff Relief Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2007
TR-97-004, TR-97-007, TR-97-008 and TR-97-010		Blue Bird Dress of Toronto Ltd.	5407.51.20 5407.52.20 5407.61.94 5407.69.20
TR-97-011		Australian Outback Collection (Canada) Ltd.	5209.31.20 5907.00.16
TR-97-012		Ballin Inc.	5407.93.30 5516.23.91 ²
TR-97-014		Lenrod Industries Ltd.	5603.93.40
TR-97-015, TR-97-016 and TR-97-020		Helly Hansen Canada Ltd.	5903.20.24
TR-98-001		Cambridge Industries	5608.19.20
TR-98-002		Distex Inc.	6006.23.10
TR-98-004, TR-98-005 and TR-98-006		Ladcal Investments Ltd., O/A Pintar Manufacturing Nour Trading House and T.S. Simms and Company Limited	5806.10.20
TR-98-007		Caulfeild Apparel Group Ltd.	5208.43.70 ¹
TR-98-016		Peerless Clothing Inc.	5407.93.20 ²
TR-98-017		Jones Apparel Group Canada Inc.	5408.32.60 ¹ 5408.33.30 ¹ 5408.34.30 ¹
TR-98-019		Tribal Sportswear Inc.	5209.12.10 ¹ 5209.22.40 ¹ 5209.32.10 ²
TR-99-002		Albany International Canada Inc.	5404.19.00 ³
TR-99-003/003A		Western Glove Works Ltd.	5209.31.30 5209.32.30
TR-99-004		Peerless Clothing Inc.	5112.11.50 ¹ 5112.19.20 ² 5112.19.30 ²
TR-99-005		Distex Inc.	6006.22.20
TR-99-006		Coloridé Inc.	5402.45.00 ³
TR-99-008		JMJ Fashions Inc.	5407.61.20 ²
TR-2000-001		Peerless Clothing Inc.	5408.22.23 ¹
TR-2000-002		Majestic Industries (Canada) Ltd.	5802.19.40 ¹
TR-2000-003		Tantalum Mining Corporation of Canada Limited	5911.40.10
TR-2000-004		Ballin Inc.	5516.23.91 ² 5516.93.00 ²
TR-2000-005		Peerless Clothing Inc.	5112.11.50 ¹ 5112.19.40 ²
TR-2000-006		Doubletex	5512.11.30 5513.11.20 5513.12.10 5513.13.10 5514.11.10 5514.12.10 5514.19.10 ³ 9997.00.00
TR-2000-007 and TR-2000-008		Scapa Tapes North America Ltd.	5208.21.50 5208.31.20
TR-2001-001		Gibson Textile Dyers	5512.29.10

Tariff Relief Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2007
TR-2001-002		Beco Industries Ltd.	5513.41.30
TR-2002-001		Richlu Manufacturing Ltd.	5209.39.10 ²
TR-2002-002		Peerless Clothing Inc.	5602.10.20 ²
TR-2002-006		C.S. Brooks Inc.	5407.91.20 5513.11.30
TR-2002-007		Peerless Clothing Inc.	5408.22.91 ¹ 5408.23.91 ¹
TR-2002-008		Tribal Sportswear Inc.	5515.11.20 ²
TR-2002-010/010A		Ballin Inc.	5516.22.10 5516.23.91 ²
TR-2003-001		Tribal Sportswear Inc.	5208.39.30 ¹ 5209.32.40 ² 5209.39.20 ² 5209.52.10 ² 5209.59.10 ²
TR-2003-002		Sunshine Mills Inc.	5205.24.30 5205.26.00 ¹ 5205.27.00 ¹
TR-2003-003		Peerless Clothing Inc.	5603.92.91 ²
TR-2003-004		Peerless Clothing Inc.	5903.90.23 ²
TR-2004-001		Tricots Liesse (1983) Inc	5402.31.10
TR-2006-001		Peerless Clothing Inc.	5407.61.97
TR-2006-002		Tricots Liesse (1983) Inc.	5510.11.10 5510.30.10
TA-98-001	TE-97-004 (TR-95-009)	Dyed woven fabrics of rayon and polyester	5408.31.40 ¹ 5408.32.60 ¹
TA-98-002	TE-97-003 (TR-94-009)	Vinex FR-9B fabric	5512.99.10
TA-98-003	TE-98-001 (TR-95-014)	Woven cut warp pile fabrics	5801.35.10
TA-2003-001	TE-2003-001 TE-2001-001 TE-98-002 (TR-94-002 and TR-94-002A)	Ring-spun yarns	5205.14.20 5205.15.00 ¹ 5205.24.20 5205.26.00 ¹ 5205.27.00 ¹ 5205.28.00 ¹ 5205.35.00 ¹ 5205.46.00 ¹ 5205.47.00 ¹ 5205.48.00 ¹ 5206.14.00 ¹ 5206.15.00 ¹ 5206.24.00 ² 5206.25.00 ¹ 5509.53.10 5509.53.20 ² 5509.53.30 ² 5509.53.40 ²
<ol style="list-style-type: none"> 1. Tariff item encompasses goods not covered in the original request as a result of the November 21, 2005, Order in Council. 2. Tariff item encompasses goods not covered in the original request as a result of the December 13, 2006, Order in Council. 3. Tariff item encompasses goods not covered in the original request as a result of the June 23, 2006, Order in Council, which came into effect on January 1, 2007. 			