

ANNUAL REPORT

**FOR THE FISCAL YEAR ENDING
MARCH 31, 2013**

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June 17, 2013

The Honourable James M. 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, 2013.

Yours sincerely,

Stephen A. Leach
Chairperson

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CHAPTER I

HIGHLIGHTS

The Canadian International Trade Tribunal (the Tribunal) is an administrative tribunal operating within Canada's trade remedy system. It provides Canadian and international businesses with access to fair, transparent and timely processes for the investigation of trade remedy cases and complaints concerning federal government procurement and for the adjudication of appeals on customs and excise tax matters. At the request of the Government, the Tribunal provides advice in tariff, trade, commercial and economic matters.

In 2012-2013, the Tribunal issued more than 170 decisions and orders under its mandate. The Tribunal's members and staff successfully managed a substantial and complex caseload involving a total of 427 participants, 148 witnesses and more than 150,000 pages of official record.

The number of new dumping investigations increased in 2012-2013 as compared to 2011-2012. The activities relating to public procurement complaints and appeals under the *Customs Act*, the *Special Import Measures Act (SIMA)* and the *Excise Tax Act* remained at significant levels throughout 2012-2013.

In September 2012, Ms. Diane Vincent's term as a member of the Tribunal ended. The Tribunal wishes to acknowledge her significant contribution to the work of the Tribunal over the last five years. During the fiscal year, the Tribunal welcomed two new members. Mr. Daniel Petit was appointed on November 27, 2012, and Ms. Ann Penner was appointed on January 14, 2013.

Trade Remedies

The Tribunal plays a significant role within Canada's trade remedy system. Under *SIMA*, the Tribunal determines whether the dumping and subsidizing of imported goods cause injury or threaten to cause injury to a domestic industry.

The Tribunal issued decisions in five preliminary injury inquiries, five injury inquiries and three expiry reviews. The estimated value of the Canadian market for the injury inquiries and expiry reviews for which decisions were rendered represented more than \$3.3 billion and approximately 3,000 direct jobs. The Tribunal also issued two determinations in interim reviews of its earlier findings pursuant to *SIMA*. At the end of the fiscal year, one preliminary injury inquiry, two expiries, two expiry reviews and three requests for interim review were in progress.

Procurement Review

During fiscal year 2012-2013, the Tribunal received 53 new procurement complaints and issued 52 decisions on whether to accept the complaints for inquiry. The Tribunal also issued final decisions in 12 cases that were accepted for inquiry, for a total of 64 decisions. The 53 complaints that the Tribunal received in the fiscal year pertained to 50 different contracts with a collective value of over \$350 million.

Appeals

During fiscal year 2012-2013, a total of 73 new appeals were filed with the Tribunal pursuant to *SIMA*, the *Customs Act* and the *Excise Tax Act*. The Tribunal issued decisions in 29 appeals from decisions of the President of the Canada Border Services Agency (CBSA) pursuant to the *Customs Act*, 7 decisions under the *Excise Tax Act* and 3 decisions under *SIMA*.

Outreach Activities

During the fiscal year, the Tribunal's staff made presentations to various international, legal, administrative and academic bodies. The Tribunal also hosted official delegations from the Eurasian Economic Commission, Peru and the Philippines.

Caseload

The first table below contains statistics pertaining to the Tribunal's caseload for 2012-2013. The second table contains statistics relating to other case-related activities in 2012-2013. These statistics illustrate the complexity and diversity of the cases considered by the Tribunal.

Tribunal Caseload Overview—2012-2013

	Cases Brought Forward From Previous Fiscal Year	Cases Received in Fiscal Year	Total	Decisions to Initiate	Decisions Not to Initiate	Total Decisions/ Reports Issued	Cases Withdrawn/ Closed	Cases Outstanding (March 31, 2013)
Trade remedies								
Preliminary injury inquiries	-	6	6	N/A	N/A	5	-	1
Inquiries	2	3	5	N/A	N/A	5	-	-
Requests for public interest inquiries	-	-	-	-	-	-	-	-
Public interest inquiries	-	-	-	-	-	-	-	-
Requests for interim reviews	2	3	5	-	2	2	-	3
Interim reviews	2	-	2	N/A	N/A	2	-	-
Expiries ¹	1	6	7	4	1	5	-	2
Expiry reviews	1	4	5	N/A	N/A	3	-	2
Remanded cases	-	1	1	N/A	N/A	1	-	-
TOTAL	8	23	31	8	4	23	-	8
Procurement								
Complaints received	1	53	54	15	37	52	2	-
Complaints accepted for inquiry	2	-	2	N/A	N/A	12	3	2
Remanded cases ²	-	-	-	N/A	N/A	-	N/A	-
TOTAL	3	53	56	15	37	64	5	2
Appeals								
Extensions of time								
<i>Customs Act</i>	4	6	10	N/A	N/A	4	-	6
<i>Excise Tax Act</i>	3	-	3	N/A	N/A	3	-	-
TOTAL	7	5	13	N/A	N/A	7	-	6
Appeals								
<i>Customs Act</i>	59	55	114	N/A	N/A	29	35	50
<i>Excise Tax Act</i>	28	6	34	N/A	N/A	7	1	26
<i>Special Import Measures Act</i>	6	12	18	N/A	N/A	3	5	10
Remanded cases	1	-	1	N/A	N/A	1	-	-
TOTAL	94	73	167	N/A	N/A	40	41	86
Standing textile reference								
Requests to initiate investigations	-	-	-	-	-	-	-	-
Investigations	-	-	-	N/A	N/A	-	-	-

1. With respect to expiries, “decisions to initiate” refer to decisions to initiate expiry reviews.
2. Where a single remand decision is issued in respect of multiple cases, it is accounted for as a single remanded case.
N/A = Not applicable

Statistics Relating to Case Activities in 2012-2013

	Trade Remedy Activities	Procurement Review Activities	Appeals	Standing Textile Reference	TOTAL
Orders					
Disclosure orders	16	-	-	-	16
Cost award orders	N/A	9	N/A	N/A	9
Compensation orders	N/A	1	N/A	N/A	1
Production orders	5	-	-	-	5
Postponement of award orders	N/A	5	N/A	N/A	5
Rescission of postponement of award orders	N/A	3	N/A	N/A	3
Directions/administrative rulings					
Requests for information	185	-	-	-	185
Motions	1	3	2	-	6
Subpoenas	1	-	-	-	1
Other statistics					
Public hearing days	29	1	29	-	59
File hearings ¹	13	48	16	-	77
Witnesses	94	6	48	-	148
Participants	179	73	175	-	427
Questionnaire replies	311	-	-	-	311
Pages of official records ²	95,015	17,647	39,324	-	151,986
<p>1. A file hearing occurs where the Tribunal renders a decision on the basis of written submissions, without holding a public hearing.</p> <p>2. Estimated.</p> <p>N/A = Not applicable</p>					



CHAPTER II

MANDATE, ORGANIZATION AND ACTIVITIES

Introduction

The Tribunal is an administrative tribunal operating within Canada's trade remedy system. It is an independent quasi-judicial body that carries out its statutory responsibilities in an autonomous and impartial manner and that reports to Parliament through the Minister of Finance. The Tribunal's strategic outcome is the fair, timely and transparent disposition of all international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

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 (CITT Procurement Inquiry Regulations)* and the *Canadian International Trade Tribunal Rules (Rules)*.

Mandate

The Tribunal is the main quasi-judicial institution in Canada's trade remedy system and has authority 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 procurement by the federal government that is covered by the *North American Free Trade Agreement (NAFTA)*, the *Agreement on Internal Trade (AIT)*, the *World Trade Organization (WTO) Agreement on Government Procurement (AGP)*, the *Canada-Chile Free Trade Agreement (CCFTA)*, the *Canada-Peru Free Trade Agreement (CPFTA)* and the *Canada-Colombia Free Trade Agreement (CCOFTA)*;

- hear appeals of decisions of the CBSA made under the *Customs Act* and *SIMA* or of the Minister of National Revenue under the *Excise Tax Act*;
- 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;
- investigate requests from Canadian producers for tariff relief on imported textile inputs that they use in their production operations and to make recommendations to the Minister of Finance on the requests; and
- inquire into complaints by domestic producers that increased imports are causing, or threatening to cause, injury to domestic producers and, as directed, make recommendations to the Government on an appropriate remedy.

Governing Legislation

Section	Authority
CITT Act	
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 or Mexico by reference from the Governor in Council
19.011	Safeguard inquiries concerning goods imported from Israel by reference from the Governor in Council
19.012	Safeguard inquiries concerning goods imported from Chile by reference from the Governor in Council
19.0121	Safeguard inquiries concerning goods imported from Colombia by reference from the Governor in Council
19.013	Safeguard inquiries concerning goods imported from Costa Rica by reference from the Governor in Council
19.014	Safeguard inquiries concerning goods imported from Iceland by reference from the Governor in Council
19.015	Safeguard inquiries concerning goods imported from Norway by reference from the Governor in Council
19.016	Safeguard inquiries concerning goods imported from Switzerland or Liechtenstein by reference from the Governor in Council
19.017	Safeguard inquiries concerning goods imported from Peru by reference from the Governor in Council
19.018	Safeguard inquiries concerning goods imported from Jordan by reference from the Governor in Council
19.02	Mid-term reviews with regard to global safeguard and anti-surge measures
20	Global safeguard inquiries by reference from the Governor in Council
23(1) and 26(1)	Global safeguard complaints by domestic producers
23(1.01), 23(1.03) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from the United States
23(1.02), 23(1.03) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Mexico
23(1.04) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Israel
23(1.05), 23(1.06) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Chile
23(1.061) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Colombia
23(1.07), 23(1.08) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Costa Rica
23(1.09) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Iceland
23(1.091) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Norway
23(1.092) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Switzerland or Liechtenstein
23(1.093) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Peru
23(1.094) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Jordan
30	Further safeguard inquiries by reference from the Governor in Council
30.01	Surge complaints regarding goods from NAFTA countries
30.011	Surge complaints regarding goods from Israel
30.012	Surge complaints regarding goods from Chile
30.07 and 30.08	Extension inquiries with regard to global safeguard and anti-surge measures
30.11(1)	Complaints by potential suppliers concerning the government procurement process for a designated contract
30.13	Inquiries into complaints by potential suppliers concerning the government procurement process for a designated contract
30.21	Inquiries into market disruption and trade diversion regarding goods from China by reference from the Governor in Council
30.22	Complaints of market disruption in respect of goods originating in China
30.23	Complaints of trade diversion in respect of goods originating in China
30.24	Further inquiries into market disruption or trade diversion by reference from the Governor in Council
30.25(7)	Expiry reviews of measures relating to market disruption or trade diversion in respect of goods originating in China

Governing Legislation (cont'd)

Section	Authority
<i>SIMA</i>	
33(2) and 37	Advisory opinions on injury by reference from the CBSA or further to requests by affected parties
34(2)	Preliminary inquiries with respect to injury or threat of injury caused by the dumping and subsidizing of goods
37.1	Preliminary determinations of injury or threat of injury
42	Inquiries with respect to injury or threat of injury caused by the dumping and subsidizing of goods
43	Orders or findings of the Tribunal concerning injury or threat of injury
44	Recommencement of inquiries (on remand from the Federal Court of Appeal or a binational panel)
45	Public interest inquiries
46	Advice to the CBSA regarding evidence that arises during an inquiry of injurious dumping or subsidizing of non-subject goods
61	Appeals of re-determinations of the CBSA concerning normal values, export prices or amounts of subsidies or whether imported goods are goods of the same description as goods to which a Tribunal finding applies
76.01	Interim reviews of Tribunal orders and findings on its own initiative or by request
76.02	Reviews resulting from the CBSA's reconsideration of final determinations of dumping or subsidizing
76.03	Expiry reviews
76.1	Reviews at the request of the Minister of Finance as a result of rulings of the WTO Dispute Settlement Body
89 and 90	Rulings on who is the importer for purposes of payment of anti-dumping or countervailing duties by request of the CBSA
91	Reconsideration of rulings on who is the importer on the Tribunal's own initiative or by request
<i>Customs Act</i>	
60.2	Applications for extensions of time to request a re-determination or a further re-determination of origin, tariff classification, value for duty or marking of imported goods by the CBSA
67	Appeals of decisions of the CBSA concerning value for duty, origin and tariff classification or making of imported goods
67.1	Applications for orders extending the time to file notices of appeal under section 67
70	References from the CBSA for advisory opinions relating to the origin, tariff classification or value for duty of goods
<i>Excise Tax Act</i>	
81.19, 81.21, 81.22, 81.23, 81.27 and 81.33	Appeals of assessments and determinations of excise tax (on automobiles, air conditioners designed for use in automobiles, gasoline, aviation gasoline, diesel fuel and aviation fuel) made by the CRA
81.32	Applications for extensions of time for internal CRA objection procedure or for appeal to Tribunal
<i>Energy Administration Act</i>	
13	Declarations concerning liability for and the amount of any oil export charge that is payable where oil is transported by pipeline or other means to a point of delivery outside Canada

Method of Operation

The Chairperson may assign either one or three members of the Tribunal to deal with cases. Members so assigned have and may exercise all the Tribunal's powers and have and may perform all the Tribunal's duties and functions in relation to the cases.

The Tribunal proceeds through file hearings or public hearings. Public hearings are held at the Tribunal's offices in Ottawa, Ontario. Public hearings may also be held elsewhere in Canada, either in person or through videoconferencing. In accordance with section 35 of the *CITT Act*, hearings should be carried out as "informally and expeditiously" as the circumstances and considerations of fairness permit.

Pursuant to section 17 of the *CITT Act*, the Tribunal is a court of record, and it has all the powers, rights and privileges as are vested in a superior court with regard to procedural matters necessary or proper for the due exercise of its jurisdiction. The Tribunal follows rules and procedures similar to those of a court of justice; for instance, the Tribunal can subpoena witnesses and require parties to produce information. However, in order to facilitate greater access, the rules and procedures are not as formal or strict.

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.

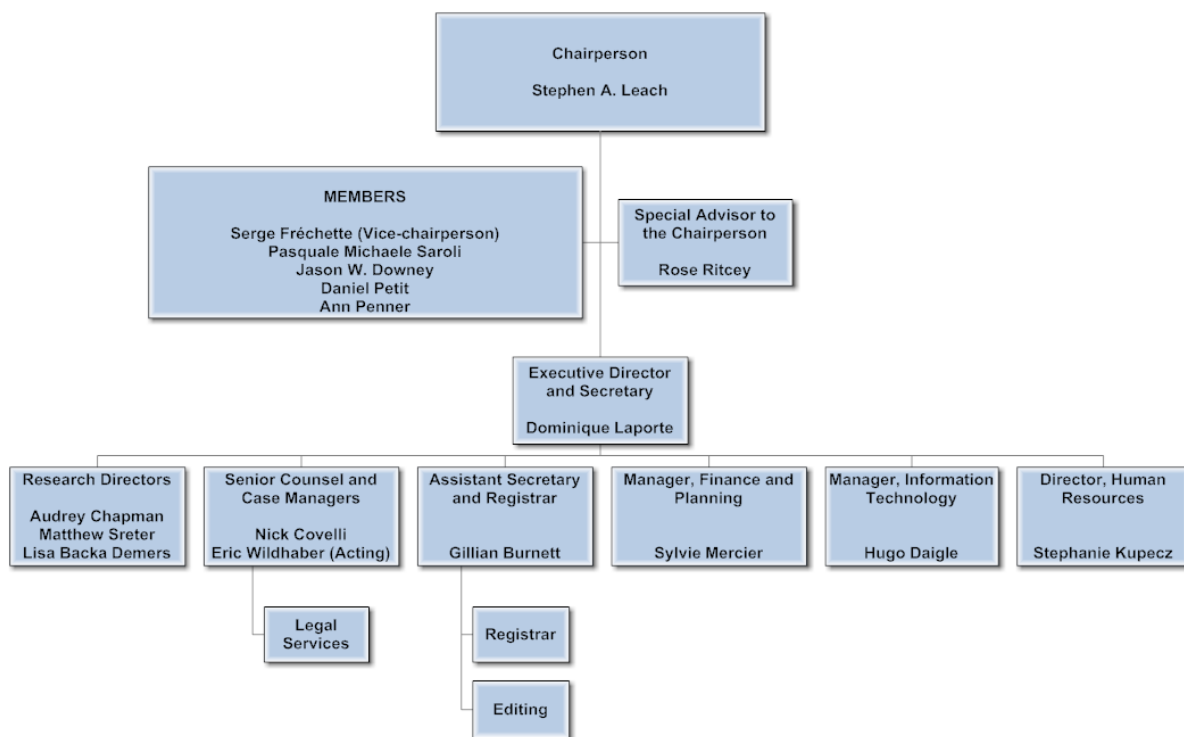
The Tribunal's Web site provides an exhaustive repository of all Tribunal notices, decisions and publications, as well as the *Canadian International Trade Tribunal Regulations*, the *Rules*, directives, guidelines, practice notices, Tribunal procedures and other information relating to its current activities. The Tribunal offers a notification service that informs subscribers of each new posting on its Web site. Subscribers can also choose a specific category of interest.

Members of the Tribunal

The Tribunal may be composed of up to seven 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, which can be renewed once. The Chairperson is the Chief Executive Officer and is responsible for the assignment of a presiding member and panel to cases and for the management of the Tribunal's work. Members have a variety of educational backgrounds and experience.

Organization

The Tribunal is led by the Chairperson and is supported by a permanent staff of 66 persons who are employees of the public service. The organizational structure is as follows.



Consultations and External Relations

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 from the Department of Justice and members of the trade consulting community who appear regularly 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 publication 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 and the Federal Court

Any person affected by Tribunal findings or orders under section 43, 44, 76.01, 76.02 or 76.03 of *SIMA* can apply for judicial review by the Federal Court of Appeal on grounds of, for instance, denial of natural justice or error of law. Any person affected by Tribunal procurement findings and recommendations under the *CITT Act* can similarly request judicial review by the Federal Court of Appeal under sections 18.1 and 28 of the *Federal Courts Act*. Lastly, Tribunal orders and decisions made pursuant to the *Customs Act* can be appealed under that act 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, 76.01, 76.02 and 76.03 of *SIMA* involving goods from the United States and Mexico may be reviewed by a binational panel established under *NAFTA*.

WTO Dispute Resolution

Governments that are members of the WTO may challenge the Government of Canada in respect of 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 Canadian producers are injured by imports of goods into Canada:

- that have been sold at prices lower than prices in the home market or at prices 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 Canadian producers comprise the domestic industry. In most cases, it does not issue questionnaires or hold a public hearing. The Tribunal completes its inquiry and renders its determination 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 not later than 15 days after its determination.

Preliminary Injury Inquiry Activities

	PI-2012-001	PI-2012-002	PI-2012-003	PI-2012-004	PI-2012-005	PI-2012-006
Product	Transformers	Steel piling pipe	Carbon steel welded pipe	Unitized wall modules	Galvanized steel wire	Unitized wall modules
Type of case/country	Dumping/Korea	Dumping and subsidizing/China	Dumping and subsidizing/Chinese Taipei, India, Oman, Korea, Thailand, Turkey and United Arab Emirates	Dumping and subsidizing/China	Dumping and subsidizing/China, Israel and Spain	Dumping and subsidizing/China
Date of determination	June 22, 2012	July 3, 2012	July 13, 2012	September 14, 2012	March 22, 2013	In progress
Determination	Reasonable indication of injury or threat of injury	Reasonable indication of injury or threat of injury, inquiry terminated with respect to goods subject to finding in NQ-2008-001	Reasonable indication of injury or retardation or threat of injury	Inquiry terminated, no reasonable indication of injury or retardation or threat of injury	Reasonable indication of injury or threat of injury	
Participants	6	3	12	11	11	
Pages of official record	2,500	3,312	2,788	2,803	2,408	

Preliminary Injury Inquiries Completed in Fiscal Year and in Progress at the End of the Fiscal Year

As illustrated in the above table, the Tribunal completed five preliminary injury inquiries in the fiscal year. There was one preliminary injury inquiry 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 until a final determination of dumping or subsidizing is made.

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 carries out extensive research for each inquiry. The Tribunal sends requests to complete questionnaires to Canadian producers, importers, purchasers, foreign producers and exporters. Primarily on the basis of questionnaire responses, the Tribunal prepares a report that focuses on the factors that the Tribunal must consider in arriving at its decision on 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 present 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 must 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 domestic production, sales, market share, profits, employment and utilization of domestic production capacity.

The Tribunal holds a public hearing about 90 days after the commencement of the inquiry, i.e. after the CBSA has made a final determination of dumping or subsidizing. At the public hearing, Canadian 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, foreign producers and exporters may challenge the Canadian 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 of the industry and market in question. Parties may also seek the exclusion of certain goods from the scope 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 issued by the CBSA. It has an additional 15 days to issue a statement of reasons supporting the finding. A Tribunal finding of injury or retardation or threat of injury to a domestic industry is required for the imposition of anti-dumping or countervailing duties by the CBSA.

Final Injury Inquiry Activities

	NQ-2011-001	NQ-2011-002	NQ-2012-001	NQ-2012-002	NQ-2012-003
Product	Pup joints	Stainless steel sinks	Liquid dielectric transformers	Steel piling pipe	Carbon steel welded pipe
Type of case/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping/Korea	Dumping and subsidizing/China	Dumping and subsidizing/Chinese Taipei, India, Oman, Korea, Thailand, Turkey and United Arab Emirates
Date of finding	April 10, 2012	May 24, 2012	November 20, 2012	November 30, 2012	December 11, 2012
Finding	Tubing pup joints/Threat of injury Casing pup joints/No injury	Injury	Injury	Threat of injury	Threat of injury
Questionnaires sent	142	263	70	227	274
Questionnaires received	34	48	43	34	61
Requests for exclusions	-	1	3	-	7
Requests for exclusions granted	-	1	-	-	2
Participants	3	11	8	4	21
Pages of official record	3,500	5,275	14,093	7,163	8,150
Public hearing days	3	2	5	4	3
Witnesses	3	5	18	10	12

Final Injury Inquiries Completed in the Fiscal Year

As illustrated in the above table, the Tribunal completed five final injury inquiries in the fiscal year. The completed inquiries concerned pup joints, stainless steel sinks, liquid dielectric transformers, steel piling pipe and carbon steel welded pipe. The following summaries were prepared for general information purposes only and are not intended to be of any legal value.

NQ-2011-001—Pup Joints

This inquiry concerned dumped and subsidized pup joints imported from the People's Republic of China (China) (the subject pup joints).

The Tribunal sent requests to complete questionnaires to 12 potential Canadian producers, 28 potential importers, 21 purchasers and 92 potential foreign producers and exporters of pup joints. Of the 153 requests sent, 27 responses were used in the Tribunal's analysis. There were 3 participants to the inquiry. During the 3 days of public hearing, 3 witnesses appeared before the Tribunal. The official record contained 3,500 pages.

The Tribunal first determined that both tubing pup joints and casing pup joints were subject to the inquiry and that the subject tubing pup joints and the subject casing pup joints were separate classes of goods. With respect to casing pup joints, the Tribunal noted that, while there was a domestic industry producing casing pup joints, it had not participated fully in the inquiry, nor had it made claims of injury. Further, the CBSA did not consider that casing pup joints were included in the subject pup joints and did not investigate whether they had been dumped or subsidized. The Tribunal, therefore, made a finding of no injury and no threat of injury with respect to the subject casing pup joints.

Next, the Tribunal determined that domestically produced tubing pup joints were like goods in relation to the subject tubing pup joints. It further determined that API 5CT and premium connection pup joints constituted a single class of goods. Finally, the Tribunal found that Alberta Oil Tool was responsible for the major proportion of domestic production of pup joints and, therefore, representative of the domestic industry.

The Tribunal observed that there was a significant increase in the volume of imports of the subject pup joints over the period of inquiry (POI). It observed some price undercutting by the subject tubing pup joints, but noted that it was primarily limited to a purchaser that did not resell the tubing pup joints. The Tribunal found that this price undercutting was not significant and did not lead to significant price depression or suppression. The Tribunal found that the domestic industry increased its sales of domestic production and market share in 2010, but began to feel the impact of imports of the subject tubing pup joints in the latter half of 2011. The Tribunal was also of the view that the domestic industry experienced a decline in financial performance in the latter half of 2011 as a result of these imports. The Tribunal concluded its injury analysis by determining that the domestic industry's productivity was stable throughout the POI, that wages were not negatively impacted by the subject tubing pup joints and that the evidence did not disclose any other negative financial impacts. Overall, the Tribunal found that the subject tubing pup joints may have negatively impacted the domestic industry in 2011, but that the impact did not constitute material injury, as prescribed by *SIMA*.

The Tribunal concluded that the dumping and subsidizing of the subject tubing pup joints had not caused injury but were threatening to cause injury. The Tribunal determined that there was a threat that purchasers would begin to import directly, bypassing distributors, and that such activity would result in price depression and suppression for the like goods. The Tribunal was of the view that an increase in imports of the subject pup joints in the following 12 to 18 months would result in injury to the domestic industry in the form of lost sales, a decline in domestic production and capacity utilization, and a decline in revenues and financial performance.

NQ-2011-002—Stainless Steel Sinks

This inquiry concerned dumped and subsidized stainless steel sinks imported from China (the subject sinks).

In its inquiry, the Tribunal sent requests to complete questionnaires to 2 Canadian producers, 43 importers, 19 purchasers and 199 potential foreign producers and exporters of stainless steel sinks. The Tribunal received questionnaire responses from the 2 Canadian producers, 31 importers, 14 purchasers and 1 foreign producer. There were 11 participants to the inquiry; however, only the 2 Canadian producers and a foreign producer/exporter that requested a product exclusion attended the hearing. During the 2-day hearing, 5 witnesses appeared before the Tribunal. The official record contained 5,275 pages.

The Tribunal first determined that stainless steel sinks produced in Canada constituted like goods in relation to the subject sinks. Then, the Tribunal determined that stainless steel sinks comprising the like goods and the subject sinks were a single class of goods. Finally, the Tribunal determined that, although the domestic producers imported small volumes of the subject sinks during the POI, they were nonetheless primarily considered domestic producers of like goods, accounted for the domestic production as a whole of the like goods and, thus, constituted the domestic industry.

The Tribunal concluded that the volume of imports of the subject sinks increased significantly over the POI, both in absolute terms and relative to the production and consumption of the like goods. It added that excluding the domestic producers' imports of the subject sinks from its assessment did not affect this conclusion. The Tribunal found that prices of the subject sinks in the Canadian market at specific trade levels for sales of benchmark products and at common accounts had the effect of significantly undercutting, depressing and suppressing the prices of the like goods during the POI, especially in 2010 and 2011. The Tribunal also determined that the presence of the subject sinks in the Canadian market resulted in a significant negative impact on the domestic industry. It added that the negative impact of imports of the subject sinks on the domestic industry was exacerbated by the magnitude of the margin of dumping and amount of subsidy.

The Tribunal found that the dumping and subsidizing of the subject sinks caused injury to the domestic industry. The Tribunal granted one request for a product exclusion.

NQ-2012-001—Liquid Dielectric Transformers

This inquiry concerned dumped liquid dielectric transformers imported from the Republic of Korea (Korea) (the subject transformers).

In its inquiry, the Tribunal sent requests to complete questionnaires to 3 Canadian producers, 25 importers and 40 purchasers of liquid dielectric transformers, and to 2 foreign producers of the subject transformers. The Tribunal received 29 questionnaire replies which it used in its analysis. These included replies from the 3 Canadian producers, 9 importers, 15 purchasers and 2 foreign producers. There were 7 participants to the inquiry, including 2 domestic producers, 2 importers, 2 foreign producers and 1 purchaser. All participants attended the hearing. During the 5-day hearing, 18 witnesses appeared before the Tribunal. The official record contained 14,093 pages.

The Tribunal determined that liquid dielectric transformers produced in Canada were like goods in relation to the subject transformers and constituted a single class of goods. The Tribunal determined that the domestic producers, ABB Inc. (ABB) and CG Power Systems Canada Inc. (CG), constituted the domestic industry.

The Tribunal concluded that the dumping of the subject transformers caused injury to the domestic industry. The Tribunal found that, although non-price factors played a significant role in the purchasing decision, price was still a dominant factor. Moreover, once bidders had been technically prequalified, price acquired even greater prominence in the final purchasing decision. The Tribunal determined that prices of the subject transformers significantly undercut, depressed and suppressed the prices of the like goods during the POI, especially in 2011 and in the interim period of 2012.

The Tribunal also concluded that there was a significant increase in the volume of imports of the subject transformers relative to the production and consumption of the like goods in 2011 and that the presence of these imports in the market had a negative impact on the domestic industry's production, capacity utilization, financial results, employment and productivity. The Tribunal noted that imports of the subject transformers also negatively impacted the domestic industry's return on investment and ability to raise capital. It added that the magnitude of the margin of dumping contributed to the deterioration of the state of the domestic industry.

The Tribunal considered other factors, i.e. decreased demand, imports from non-subject countries (in particular, imports by ABB), the domestic industry's export performance, CG's pricing strategy, intra-industry competition and suppliers' ability to deliver goods. However, after examining the evidence on the record, the Tribunal concluded that any injurious effects that may have been attributable to the above factors, whether taken individually or as a whole, did not negate its conclusion that the dumping itself had caused material injury to the domestic industry.

The Tribunal received requests to exclude the subject transformers sold to Canadian purchasers prior to the filing of the complaint and which were to be imported following the issuance of the Tribunal's finding. These requests were moot, given that they were conditional on the Tribunal finding threat of injury. The Tribunal also received one additional product exclusion request which was denied.

NQ-2012-002—Steel Piling Pipe

This inquiry concerned dumped and subsidized steel piling pipe imported from China (the subject pipe).

On July 3, 2012, as part of its preliminary injury determination, the Tribunal found that a subset of the goods described in the CBSA's notice of initiation of investigations were subject to another Tribunal finding and consequently terminated the preliminary injury inquiry in respect of those goods. The official record contained 7,163 pages.

In its inquiry, the Tribunal sent requests to complete questionnaires to 7 potential Canadian producers, 32 importers and 22 purchasers of steel piling pipe, to 8 Canadian producers of other pipe products, and to 166 potential foreign producers and exporters of steel piling pipe. The Tribunal received 18 questionnaire replies. There were 5 participants to the inquiry; however, one withdrew and only three participated at the hearing, including 2 domestic producers and 1 importer. Ten witnesses appeared before the Tribunal during the 4-day hearing.

The Tribunal determined, prior to the hearing, that there was no overlap between the subject pipe in this inquiry and the goods subject to other Tribunal orders or findings. In this regard, the Tribunal determined that the only overlap of product definitions was that which had been identified in the Tribunal's determination in the preliminary injury inquiry. The Tribunal also determined that the scope of like goods in relation to the subject pipe was confined to those goods that were commonly identified as steel piling pipe. The Tribunal determined that six known producers constituted the domestic industry.

The Tribunal found that the volume of imports of the subject pipe increased significantly over the POI, which contributed to a significant increase in the share of the domestic market held by the subject pipe in 2011. The Tribunal concluded that, despite the significant increase in the volume of imports of the subject pipe in the rapidly expanding market for steel piling pipe over the POI, the domestic industry generally

performed well and was able to increase its selling prices and improve financial performance, productivity, employment and wages, in addition to maintaining its sales volume, production, capacity and capacity utilization. The Tribunal further determined that, while the subject pipe had some adverse price effects on the price of the like goods during the POI, the resulting injury to the domestic industry did not attain a level of significance that would render it “material”, within the intended meaning of that term under *SIMA*.

However, the Tribunal considered that there was a clearly imminent and foreseeable threat of injury. In the Tribunal’s opinion, the expected price competition and volumes of dumped and subsidized pipe would result in price depression, price suppression and loss of sales to the domestic industry which, in turn, would result in reduced domestic production, capacity utilization and negative indices of financial performance.

NQ-2012-003—Carbon Steel Welded Pipe

This inquiry concerned dumped carbon steel welded pipe (CSWP) imported from Chinese Taipei, the Republic of India (India), the Sultanate of Oman (Oman), Korea, Thailand, the Republic of Turkey (Turkey) and the United Arab Emirates (the UAE) and subsidized CSWP from India, Oman and the UAE (the subject CSWP). On November 9, 2012, the CBSA made final determinations and terminated the investigation regarding the dumping of the subject CSWP from Turkey and terminated the investigation regarding the subsidizing of the subject CSWP from Oman and the UAE. The official record contained 8,150 pages.

In its inquiry, the Tribunal sent requests to complete questionnaires to 8 Canadian producers, 44 potential importers, 33 potential purchasers and 188 potential foreign producers and exporters of CSWP. The Tribunal received 60 questionnaire replies. There were 21 participants to the inquiry with 12 witnesses appearing before the Tribunal during 3 days of public hearing.

The Tribunal first determined that CSWP produced in Canada was like goods in relation to the subject CSWP and constituted a single class of goods. The Tribunal then determined that five known producers, which accounted for the totality of domestic production of like goods, constituted the domestic industry.

On December 11, 2012, the Tribunal found that the dumping and subsidizing of the subject CSWP had not caused material injury to the domestic industry. The Tribunal concluded that the volume of imports of the subject CSWP increased significantly over the POI, both in absolute terms and relative to the production and consumption of the like goods. In addition, the Tribunal found that prices of the subject CSWP in the Canadian market significantly undercut the prices of like goods and caused limited price depression and price suppression. The Tribunal acknowledged that the domestic industry, as a whole, sustained some injury during certain periods of the POI, but was of the view that the resulting impact was not sufficiently adverse to constitute material injury. However, in the subsequent 12 to 18 months, the Tribunal found that there was an imminent and foreseeable threat of material injury to the domestic industry and that this injury was likely to be directly attributable to the volume and price effects of the subject CSWP.

Regarding requests for exclusions, the Tribunal received seven product exclusion requests, a producer exclusion request, and a country exclusion request from seven requesters. Following a detailed analysis, the Tribunal granted two product exclusion requests.

Final Injury Inquiries in Progress at the End of the Fiscal Year

There were no final injury inquiries in progress at the end of the fiscal year.

Public Interest Inquiries 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, if it is of the opinion that there are reasonable grounds to consider that the imposition of all or part of the duties may not be in the public interest. If it is of this view, the Tribunal 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. No requests for public interest inquiries were filed with the Tribunal in 2012-2013.

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*). The Tribunal commences an interim review where one is warranted, and it then 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 the time.

Interim Review Activities

	Interim Review Nos. RD-2011-001 and RD-2011-003	Request for Interim Review No. RD-2011-005	Request for Interim Review No. RD-2011-006	Request for Interim Review No. RD-2012-001	Request for Interim Review No. RD-2012-002	Request for Interim Review No. RD-2012-003
Product	Aluminum extrusions	Aluminum extrusions	Aluminum extrusions	Aluminum extrusions	Bicycles	Bicycles
Type of case/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping/Chinese Taipei and China	Dumping/Chinese Taipei and China
Date of order or of withdrawal	November 15, 2012	In progress	In progress	In progress	March 27, 2013	March 27, 2013
Order	No amendment to findings				No review	No review
Participants	3				4	4
Pages of official record	4,133				75	75

Requests for Interim Reviews and Interim Reviews Completed in the Fiscal Year

As can be seen in the above table, the Tribunal ruled on two interim reviews commenced in the previous fiscal year (RD-2011-001 and RD-2011-003), continuing its findings without amendment. As well, the Tribunal ruled on two requests for interim review received in the current fiscal year (RD-2012-002 and RD-2012-003) and decided not to conduct an interim review regarding its order made on December 7, 2012, in Expiry Review No. RR-2011-002.

Two requests for interim review received in the previous fiscal year (RD-2011-005 and RD-2011-006) and one request for interim review received in the current fiscal year (RD-2012-001) were in progress.

Expiries

Subsection 76.03(1) of *SIMA* provides that a finding or order expires after five years, unless an expiry review has been initiated. Not later than 10 months before the expiry date of the order or finding, the Secretary of the Tribunal 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. If the Tribunal determines that an expiry review is not warranted, it issues an order with reasons for its decision. Otherwise, it initiates an expiry review.

Expiry Activities

	LE-2011-003	LE-2012-001	LE-2012-002	LE-2012-003	LE-2012-004	LE-2012-005	LE-2012-006
Product	Hot-rolled carbon steel plate	Seamless carbon or alloy steel oil and gas well casing	Carbon steel pipe nipples and adaptor fittings	Carbon steel welded pipe	Thermoelectric containers	Structural tubing	Hot-rolled steel plate
Type of case/country	Dumping/China	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping/Korea, South Africa and Turkey	Dumping/Bulgaria, Czech Republic and Romania
Date of order or notice of expiry review	April 25, 2012	June 27, 2012	October 31, 2012	December 5, 2012	March 27, 2013	In progress	In progress
Decision	Expiry review initiated	Expiry review initiated	No expiry review	Expiry review initiated	Expiry review initiated		
Participants	3	7	1	9	3		
Pages of official record	200	400	60	750	450		

As illustrated in the above table, the Tribunal decided to commence four expiry reviews in the fiscal year.

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-2012-001 respecting hot-rolled carbon steel plate, Expiry Review No. RR-2012-002 respecting seamless carbon or alloy steel oil and gas well casing, Expiry Review No. RR-2012-003 respecting carbon steel welded pipe and Expiry Review No. RR-2012-004 respecting thermoelectric containers.

In Expiry No. LE-2012-002 respecting carbon steel pipe nipples and adaptor fittings, the Tribunal received no request for a review of its order made on July 15, 2008. The order will therefore expire on July 14, 2013.

At the end of the fiscal year, Expiry No. LE-2012-005 respecting structural tubing and Expiry No. LE-2012-006 respecting hot-rolled steel plate were in progress.

Expiry Reviews

When the Tribunal initiates an expiry review of a finding or an order, it issues a notice of expiry 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.

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 there is no likelihood of resumed dumping or subsidizing 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 is 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

	RR-2011-002	RR-2012-001	RR-2012-002	RR-2012-003	RR-2012-004
Product	Bicycles	Hot-rolled carbon steel plate	Seamless carbon or alloy steel oil and gas well casing	Carbon steel welded pipe	Thermoelectric containers
Type of case/country	Dumping/Chinese Taipei and China	Dumping/China	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China
Date of order	December 7, 2012	January 8, 2013	March 11, 2013	In progress	In progress
Order	Order continued	Order continued	Finding continued		
Questionnaires sent¹	193	102	55		
Questionnaires received²	39	25	27		
Participants	15	3	4		
Pages of official record	18,197	5,500	8,800		
Public hearing days	3	1	2		
Witnesses	9	4	5		

1. Expiry review questionnaires are sent to a comprehensive list of known domestic producers and to all potential importers and exporters, and are 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, which generally account for 80 percent or more of the subject imports during the period of review.

Expiry Reviews Completed in the Fiscal Year

As illustrated in the above table, during the fiscal year, the Tribunal completed three expiry reviews.

RR-2011-002—Bicycles

This expiry review concerned the dumping of bicycles with an FOB Chinese Taipei or China selling price of CAN\$225 or less originating in or exported from Chinese Taipei and China (the subject bicycles).

The Tribunal sent requests to complete questionnaires to 7 known Canadian producers/assemblers, 39 importers and 148 potential foreign producers and exporters of bicycles. The Tribunal received questionnaire replies from 6 known Canadian producers/assemblers, 18 importers, and 15 foreign producers and exporters. There were 15 participants in the expiry review, with 9 witnesses appearing before the Tribunal during the 3-day hearing. The official record contained 18,197 pages.

The Tribunal was persuaded that both Chinese and Chinese Taipei producers and exporters were capable of producing bicycles and exporting them at FOB selling prices of CAN\$225 or less for sale in the Canadian market at manufacturer's suggested retail prices of CAN\$400 or less. Accordingly, the Tribunal determined, that, if the order were rescinded, the subject countries would likely export bicycles at dumped prices well below current values and the Canadian producers' prices. On December 7, 2012, the Tribunal continued its order in respect of bicycles with an FOB Chinese Taipei or China selling price of CAN\$225 or less originating in or exported from Chinese Taipei and China.

RR-2012-001—Hot-rolled Carbon Steel Plate

This expiry review concerned the dumping of hot-rolled carbon steel plate originating in or exported from China (the subject plate).

The Tribunal sent requests to complete questionnaires to 24 known Canadian producers, 22 potential importers and 40 potential foreign producers and exporters of hot-rolled carbon steel plate. Furthermore, the Tribunal sent requests to complete a short-form importer's questionnaire to 17 potential importers. The Tribunal received 4 replies from domestic producers, 18 from importers and 3 from exporters. Of these replies, 16 were used in the Tribunal's analysis.

There were three participants to the expiry review, with four witnesses appearing before the Tribunal during a single day of public hearing. No parties appeared before the Tribunal or provided submissions in opposition to the continuation of the order. The official record contained 5,500 pages.

The Tribunal was of the view that, if the order were rescinded, the likely continuation or resumption of dumping from China would likely result in injury to the domestic industry. Consequently, on January 8, 2013, the Tribunal continued its order in respect of the subject plate.

RR-2012-002—Seamless Carbon or Alloy Steel Oil and Gas Well Casing

This expiry review concerned the dumping and subsidizing of seamless carbon or alloy steel oil and gas well casing (seamless casing) originating in or exported from China (the subject casing).

The Tribunal sent requests to complete questionnaires to 4 Canadian producers, 29 potential importers and 22 potential foreign producers and exporters of seamless casing. Furthermore, the Tribunal sent requests to complete a short-form importer's questionnaire to 20 importers. The Tribunal received questionnaire replies from 4 domestic producers, 9 importers and 4 exporters. It also received 10 replies from importers that were requested to respond to the short-form importer's questionnaire. There were 4 participants to the expiry review, with 5 witnesses appearing before the Tribunal during the 2-day hearing. The official record contained 8,800 pages.

The Tribunal was of the view that, if the finding were rescinded, there was likely to be a significant increase in imports of the subject casing at prices that would cause injury to the domestic industry. Consequently, on March 11, 2013, the Tribunal continued its finding in respect of the subject casing.

Expiry Reviews in Progress at the End of the Fiscal Year

There were two expiry reviews in progress at the end of the fiscal year respecting carbon steel welded pipe and thermoelectric containers.

RR-2012-003

This is an expiry review of the Tribunal's finding made on August 20, 2008, in Inquiry No. NQ-2008-001 concerning the dumping and subsidizing of carbon steel welded pipe originating in or exported from China.

This is an expiry review of the Tribunal's finding made on December 11, 2008, in Inquiry No. NQ-2008-002 concerning the dumping and subsidizing of thermoelectric containers originating in or exported from China.

Judicial or Panel Reviews of SIMA Decisions

On May 30, 2012, the Federal Court of Appeal remanded the Tribunal's decision in Expiry Review No. RR-2009-003, which rescinded its order in respect of the dumping of refined sugar originating in or exported from Denmark, Germany, the Netherlands and the United Kingdom, and the subsidizing of refined sugar originating in or exported from the European Union.

On June 18, 2012, in Expiry Review No. RR-2009-003R, the Tribunal recommenced the expiry review of its order in respect of the dumping of refined sugar originating in or exported from Denmark, Germany, the Netherlands and the United Kingdom, and the subsidizing of refined sugar originating in or exported from the European Union. On September 28, 2012, the Tribunal, having reconsidered the matter as directed by the Federal Court of Appeal, continued the order.

The following table lists Tribunal decisions that were before the Federal Court of Appeal under section 76 of *SIMA* in the fiscal year.

Summary of Judicial or Panel Reviews

Case No.	Product	Country of Origin	Court File No./Status
RR-2009-003	Refined sugar	United States, Denmark, Germany, Netherlands, United Kingdom and European Union	A—461—10 Application allowed (May 30, 2012)
PI-2012-004	Unitized Wall Modules	China	A—441—12 Application discontinued (February 25, 2013)
Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not ordinarily 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.			

WTO Dispute Resolutions

There were no Tribunal findings or orders before the WTO Dispute Settlement Body during the fiscal year.

SIMA Findings and Orders in Force as of March 31, 2013

During calendar year 2012, there were 24 *SIMA* findings and orders in force, affecting approximately 0.28 percent of Canadian imports, 2.62 percent of Canadian shipments and 0.81 percent of Canadian employment.

Summary of Findings and Orders in Force

Review No. or Inquiry No.	Date of Decision	Product	Type of Case/Country	Related Decision No. and Date
NQ-2008-001	August 20, 2008	Carbon steel welded pipe	Dumping and subsidizing/China	
NQ-2008-002	December 11, 2008	Thermoelectric containers	Dumping and subsidizing/China	
NQ-2008-003	March 17, 2009	Aluminum extrusions	Dumping and subsidizing/China	
NQ-2009-002	November 24, 2009	Mattress innerspring units	Dumping/China	
NQ-2009-003	February 2, 2010	Hot-rolled carbon steel plate and high-strength low-alloy plate	Dumping/Ukraine	
NQ-2009-004	March 23, 2010	Oil country tubular goods	Dumping and subsidizing/China	
NQ-2010-001	October 9, 2010	Greenhouse bell peppers	Dumping/Netherlands	
NQ-2010-002	April 19, 2011	Steel grating	Dumping and subsidizing/China	
NQ-2011-001	April 10, 2012	Pup joints	Dumping and subsidizing/China	
NQ-2011-002	May 24, 2012	Stainless steel sinks	Dumping and subsidizing/China	
NQ-2012-001	November 20, 2012	Liquid dielectric transformers	Dumping/Korea	
NQ-2012-002	November 30, 2012	Steel piling pipe	Dumping and subsidizing/China	
NQ-2012-003	December 11, 2012	Carbon steel welded pipe	Dumping/Chinese Taipei, India, Oman, Korea, Thailand and the United Arab Emirates Subsidizing/India	
RR-2007-003	July 15, 2008	Carbon steel pipe nipples and adaptor fittings	Dumping/China	RD-2006-006 (June 8, 2007) NQ-2002-004 (July 16, 2003)
RR-2008-001	December 22, 2008	Structural tubing	Dumping/Korea, South Africa and Turkey	NQ-2003-001 (December 23, 2003)
RR-2008-002	January 8, 2009	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Dumping/Bulgaria, Czech Republic and Romania	NQ-2003-002 (January 9, 2004)
RR-2009-001	January 6, 2010	Carbon steel fasteners	Dumping/China and Chinese Taipei Subsidizing/China	NQ-2004-005 (January 7, 2005)
RR-2009-002	September 10, 2010	Whole potatoes	Dumping/United States	RR-2004-006 (September 12, 2005) 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-2009-003	November 1, 2010	Refined sugar	Dumping/Denmark, Germany, Netherlands, United Kingdom and United States Subsidizing/European Union	RR-2004-007 (November 2, 2005) RR-99-006 (November 3, 2000) NQ-95-002 (November 6, 1995)
RR-2010-001	August 15, 2011	Flat hot-rolled carbon and alloy steel sheet and strip	Dumping/Brazil, China, Chinese Taipei, India and Ukraine Subsidizing/India	RR-2005-002 (August 16, 2006) NQ-2001-001 (August 17, 2001)
RR-2011-001	February 17, 2012	Copper pipe fittings	Dumping/United States, Korea and China Subsidizing/China	NQ-2006-002 (February 19, 2007)

Summary of Findings and Orders in Force (cont'd)

Review No. or Inquiry No.	Date of Decision	Product	Type of Case/Country	Related Decision No. and Date
RR-2011-002	December 7, 2012	Bicycles	Dumping/Chinese Taipei and China	RR-2006-001 (December 10, 2007) RR-2002-001 (December 9, 2002) RR-97-003 (December 10, 1997) NQ-92-002 (December 11, 1992)
RR-2012-001	January 8, 2013	Hot-rolled carbon steel plate	Dumping/China	RR-2007-001 (January 9, 2008) RR-2001-006 (January 10, 2003) NQ-97-001 (October 27, 1997)
RR-2012-002	March 11, 2013	Seamless carbon or alloy steel oil and gas well casing	Dumping and subsidizing/China	NQ-2007-001 (March 10, 2008)
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 procurement solicitation covered by *NAFTA*, the *AIT*, the *AGP*, the *CCFTA*, the *CPFTA* or the *CCOFTA* may file a complaint with the Tribunal. The relevant provisions of the *CITT Procurement Inquiry Regulations* allow a complainant to first make an attempt to resolve the issue with the government institution responsible for the procurement before filing a complaint.

The Tribunal's role is to determine whether the government institution followed the procurement procedures and other requirements specified in the applicable trade agreements.

When the Tribunal receives a complaint, it reviews it against the legislative criteria for filing. If there are deficiencies, the complainant is given an opportunity to correct them within the specified time limit. If the Tribunal decides to conduct an inquiry, the government institution is sent a formal notification of the complaint and a copy of the complaint itself. If the contract has been awarded, the government institution, in its acknowledgement of receipt of complaint letter, provides the Tribunal with the name and address of the contract awardee. The Tribunal then sends a notification of the complaint to the contract awardee as a possible interested party. An official notice of the complaint is published in the *Canada Gazette*. If the contract in question has not been awarded, the Tribunal may order the government institution to postpone the award of any contract pending the disposition of the complaint by the Tribunal.

After receipt of its copy of the complaint, the relevant government institution files a response called the Government Institution Report. The complainant and any intervener are sent a copy of the response and given an opportunity to submit comments. Any comments received are forwarded to the government institution and other parties to the inquiry.

Copies of any other submissions or reports prepared during the inquiry are also circulated to all parties for their comments. Once this phase of the inquiry is completed, the Tribunal reviews the information on the record 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 or not the complaint is valid. If it is, the Tribunal may make recommendations for remedies, such as re-tendering, re-evaluating or providing compensation to the complainant. The government institution, as well as all other parties and interested persons, is notified of the Tribunal's decision. Recommendations made by the Tribunal are, by statute, supposed 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

	2011-2012	2012-2013
Number of Procurement Cases Received		
Carried over from previous fiscal year	4	3
Received in fiscal year	62	53
Total	66	56
Disposition—Complaints Accepted for Inquiry		
Dismissed	1	1
Not valid	10	8
Valid or valid in part	1	1
Ceased	-	2
Withdrawn/abandoned	4	3
Subtotal	16	15
Disposition—Complaints Not Accepted for Inquiry		
Lack of jurisdiction/not a potential supplier	7	2
Late filing	11	10
Not a designated contract/no reasonable indication of a breach/premature	28	25
Withdrawn/abandoned	1	2
Subtotal	47	39
Outstanding at End of Fiscal Year	3	2
Decisions to initiate	15	15
Remanded cases	4	-

In 2012-2013, the Department of Public Works and Government Services (PWGSC) issued approximately 11,503 contracts valued at between \$25,000 and \$2 billion each, for a total value of \$7 billion. The 53 complaints that the Tribunal received in the fiscal year pertained to 50 different contracts with a collective value of over \$350 million.

Summary of Selected Determinations

During the fiscal year, the Tribunal issued 52 decisions on whether to accept complaints for inquiry, which included one decision to inquire that was made in a matter received in the previous fiscal year, and 12 final decisions on complaints that were accepted for inquiry, for a total of 64 decisions. Two cases were still in progress at the end of the fiscal year.

Of the complaints 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 not intended to be of any legal value.

PR-2012-006—Secure Computing LLC

This complaint was filed by Secure Computing LLC (Secure Computing) concerning a procurement by PWGSC on behalf of the Department of National Defence (DND) for the provision of networking equipment. Secure Computing alleged that DND accepted products that were not compliant with the requirements of the solicitation.

PWGSC conceded that the units delivered by the winning bidder, Conexsys Communications Ltd. (Conexsys), did not meet the requirements. However, PWGSC submitted that, as the allegations contained in the complaint related to matters that fall under contract administration, an area which is beyond the Tribunal's jurisdiction, and given that PWGSC had advised the Tribunal that it intended to enforce the terms of the contract and require Conexsys to deliver compliant products that meet all the requirements of the solicitation documents and of the contract, the Tribunal ought to dismiss this complaint.

The Tribunal found that PWGSC had evaluated Conexsys' proposal, as it was submitted at the time of bid closing, in accordance with the terms of the solicitation documents. Accordingly, the decision to award the contract to Conexsys was reasonable because, on its face, Conexsys' proposal was fully compliant with the technical requirements of the solicitation. The Tribunal was satisfied that PWGSC took the necessary steps to enforce the contract that was awarded to Conexsys and that this matter had to be treated as one of contract administration or contract performance over which the Tribunal does not have jurisdiction. Finally, the Tribunal did not accept Secure Computing's argument that PWGSC's actions in this matter improperly permitted Conexsys to repair its initial bid. Bid repair is a term used to describe the improper alteration or modification of a bid either by the bidder or by the procuring entity after the deadline for the receipt of bids has passed. In this case, there was no such alteration or modification of Conexsys' bid. Therefore, the Tribunal determined that the complaint was not valid.

PR-2012-007—Sunny Jaura d.b.a. Jaura Enterprises

Sunny Jaura d.b.a. Jaura Enterprises (Jaura) filed a complaint concerning a procurement by PWGSC on behalf of DND for the provision of temporary housing accommodation services in Mesa, Arizona. According to Jaura, PWGSC and DND improperly determined that its proposal was non-compliant with two mandatory technical requirements in the solicitation. After the Tribunal accepted the complaint for inquiry, PWGSC filed evidence that the estimated value of the contract was below the monetary thresholds specified in the trade agreements.

In this case, the Tribunal considered whether DND selected a valuation method with the intention of avoiding the obligations of the trade agreements. Although the value of the contract awarded to the winning bidder, Oakwood Temporary Housing, and the total amount of Jaura's bid were both greater than the value of the contract as estimated by DND, this could have been attributable to the fact that PWGSC only received proposals from two bidders. In the end, the Tribunal was satisfied that the estimated value of the contract was not unreasonable. As the estimated value of the contract was below the monetary thresholds specified in the applicable trade agreements, the Tribunal found that the complaint did not relate to a "designated contract". Accordingly, the Tribunal was without jurisdiction to conduct an inquiry, and the complaint was dismissed.

Weir Canada Inc. (Weir) filed a complaint concerning a procurement by PWGSC on behalf of DND for the repair, overhaul and testing of a variety of pump assemblies or subassemblies used in various fluid systems on board DND ships. Weir alleged that PWGSC failed to conduct a fair and unbiased procurement process because the Request for Proposal (RFP) contained certain requirements that were unjustifiably biased in favour of particular Original Equipment Manufacturer (OEM) goods and OEM bidders, with the effect of excluding Weir's bid. Specifically, Weir alleged that the following requirements under the RFP were unjustifiably biased in favour of OEM goods and OEM bidders: certification of the supply of OEM parts (Requirement No. 1); and the bidder must be an OEM or under a contract pertaining to technical data and repair/overhaul specifications with an OEM (Requirement No. 2).

The Tribunal found that a proper interpretation of section 6 of the *CITT Procurement Inquiry Regulations* that a complainant's assumption regarding its ability to meet requirements which it finds objectionable was irrelevant. Once a complainant knows or ought to know the basis of its complaint, it should take action. Therefore, Weir should have reasonably objected or filed a complaint within 10 working days of May 31, 2012, the day on which the RFP was issued, and should not have waited to see if its subcontractor OEM, Curtiss-Wright, would agree to support its bid.

In any event, even if section 6 of the *CITT Procurement Inquiry Regulations* could be construed such that the relevant time line was when Weir knew that it could not meet the requirements of the RFP which it found objectionable, then Weir reasonably ought to have objected to PWGSC or filed a complaint with the Tribunal within 10 working days of July 6, 2012, when Curtiss-Wright responded to Weir that it would not be able to support its bid. That would make the objection to Requirement No. 2 late, considering that it was not made until August 22, 2012, and the complaint was not filed until September 4, 2012. Similarly, even though the objection with respect to Requirement No. 1 would have been timely, having been made on July 17, 2012, it was nonetheless late because there was a clear denial of relief to this objection on August 9, 2012, when PWGSC issued amendment No. 006, but the complaint was not filed until September 4, 2012. Therefore, the complaint was late on both grounds, and the Tribunal decided not to conduct an inquiry.

Disposition of Procurement Complaints

File No.	Complainant	Status/Decision
PR-2011-049	E.G. Spence Residential, Commercial and Industrial Maintenance and Construction	Decision issued on April 2, 2012 Complaint valid
PR-2011-053	Service d'entretien JDH Inc.	Complaint withdrawn on April 5, 2012
PR-2011-061	The Masha Krupp Translation Group Limited	Decision issued on May 28, 2012 Complaint not valid
PR-2011-062	Secure Computing LLC	Decision made on March 29, 2012 Complaint premature
PR-2012-001	Secure Computing LLC	Decision made on April 11, 2012 No reasonable indication of a breach
PR-2012-002	ADRM Technology Consulting Group Corp./Randstad Interim Inc.	Decision made on April 26, 2012 No reasonable indication of a breach
PR-2012-003	2127464 Ontario Inc. o/a Window Butler	Decision made on May 10, 2012 Late filing

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2012-004	The Corporate Research Group Ltd.	Decision made on May 10, 2012 Complaint premature
PR-2012-005	Accent on Clarity	Decision made on June 13, 2012 No reasonable indication of a breach
PR-2012-006	Secure Computing LLC	Decision issued on October 23, 2012 Complaint not valid
PR-2012-007	Sunny Jaura d.b.a. Jaura Enterprises	Order issued September 5, 2012 Dismissed—lack of jurisdiction
PR-2012-008	Clearpath Robotics Inc.	Complaint withdrawn on August 22, 2012
PR-2012-009	Ridgeline Mechanical Ltd.	Decision made on July 17, 2012 No reasonable indication of a breach
PR-2012-010	Thales Canada Inc.	Decision made on July 27, 2012 No reasonable indication of a breach
PR-2012-011	9198-6919 Québec Inc. o/a Verreault Inc.	Decision made on August 1, 2012 No reasonable indication of a breach
PR-2012-012	Samson & Associates	Decision issued on October 19, 2012 Complaint not valid
PR-2012-013	Team Sunray and CAE Inc.	Decision issued on October 25, 2012 Complaint not valid
PR-2012-014	Weir Canada Inc.	Decision made on September 6, 2012 Late filing
PR-2012-015	Storeimage	Decision issued on January 18, 2013 Complaint not valid
PR-2012-016	Professional Computer Consultants Group Ltd. (Procom)	Decision issued on November 30, 2012 Complaint not valid
PR-2012-017	Headwall Photonics, Inc.	Decision made on September 25, 2012 No reasonable indication of a breach
PR-2012-018	Mediamix Interactive	Decision made on October 4, 2012 No reasonable indication of a breach
PR-2012-019	P.J.W. van Zyl and Sons Ltd.	Decision made on October 5, 2012 No reasonable indication of a breach
PR-2012-020	C3 Polymeric Limited	Decision issued on February 14, 2013 Complaint not valid
PR-2012-021	Paul Pollack Personnel Ltd. o/a The Pollack Group Canada	Decision issued on January 11, 2013 Complaint not valid
PR-2012-022	Offshore Systems Ltd.	Order issued on November 28, 2012 Inquiry ceased
PR-2012-023	Paul Pollack Personnel Ltd. o/a The Pollack Group Canada	Complaint withdrawn on November 28, 2012
PR-2012-024	Gear Up Motors	Order issued on November 26, 2012 Inquiry ceased
PR-2012-025	Central Automotive Inspections Records & Standards Services (CAIRSS) Corp.	Decision made on October 31, 2012 No reasonable indication of a breach
PR-2012-026	Les Entreprises Prebbel Enterprises Inc.	Decision made on November 5, 2012 Late filing
PR-2012-027	Star Group International	Decision made on November 16, 2012 Complaint premature
PR-2012-028	Teledyne DALSA Inc.	Decision made on November 29, 2012 No reasonable indication of a breach
PR-2012-029	Quality Control International in joint venture with Service Star Building Cleaning	Decision made on November 30, 2012 No reasonable indication of a breach
PR-2012-030	Todd Dunnett Enterprises	Decision made on December 6, 2012 Complaint premature
PR-2012-031	Tetra Tech WEI Inc.	Decision made on December 5, 2012 Late filing

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2012-032	Primex Project Management Limited	Decision made on December 12, 2012 Late filing
PR-2012-033	Napier-Reid Ltd.	Decision made on December 11, 2012 No reasonable indication of a breach
PR-2012-034	Adlerhorst International, Inc.	Decision made on December 18, 2012 Lack of jurisdiction
PR-2012-035	Mistral Security Inc.	Accepted for inquiry—in progress
PR-2012-036	Rampart Aviation, LLC	Decision made on January 7, 2013 Not a potential supplier
PR-2012-037	1760533 Ontario Ltd. o/a Sovereign Chauffeured Cars	Decision made on January 7, 2013 Late filing
PR-2012-038	Flag Connection Inc.	Decision made on January 9, 2013 No reasonable indication of a breach
PR-2012-039	The Ancien Group Inc.	Decision made on January 28, 2013 Not a designated contract
PR-2012-040	Flag Connection Inc.	Decision made on January 25, 2013 No reasonable indication of a breach
PR-2012-041	Professional Language School	Decision made on February 1, 2013 No reasonable indication of a breach
PR-2012-042	Parsons Brinkerhoff Halsall Inc. d.b.a. Halsall Associates	Complaint withdrawn on February 15, 2013
PR-2012-043	Sunny Jaura o/a Jaura Enterprises	Decision made on February 21, 2013 No reasonable indication of a breach
PR-2012-044	ECI Networks Canada	Decision made on March 7, 2013 Late filing
PR-2012-045	Flaman Management Partners Ltd.	Decision made on March 6, 2013 Late filing
PR-2012-046	1091847 Ontario Ltd.	Decision made on March 12, 2013 No reasonable indication of a breach
PR-2012-047	M.L. Wilson Management	Accepted for inquiry—in progress
PR-2012-048	G4S Secure Solutions (Canada) Ltd.	Complaint withdrawn on March 13, 2013
PR-2012-049	Manitex Liftking ULC	Decision made on March 19, 2013 Late filing
PR-2012-050	Verreault Navigation Inc.	Decision made on March 14, 2013 Complaint premature
PR-2012-051	Agri-SX Inc.	Decision made on March 27, 2013 Late filing
PR-2012-052	Team Eagle Ltd.	Decision made on March 19, 2013 Complaint premature
PR-2012-053	9178-6574 Québec Inc. dba Moment Factory	Decision made on March 26, 2013 No reasonable indication of a breach

Judicial Review of Procurement Decisions

Decisions Appealed to the Federal Court of Appeal

File No.	Complainant Before the Tribunal	Applicant Before the Federal Court of Appeal	Court File No./Status
PR-2011-007	Acklands-Grainger Inc.	Acklands-Grainger Inc.	A—387—11 Application dismissed (November 19, 2012)
PR-2011-031	Bell Canada	Bell Canada	A—397—11 Application dismissed (May 29, 2012)
PR-2011-009 and PR-2011-010	The Access Information Agency Inc.	The Access Information Agency Inc.	A—419—11 Application dismissed (September 11, 2012)
PR-2011-023	Almon Equipment Limited	Attorney General of Canada	A—45—12 Application dismissed (December 5, 2012)
PR-2011-022	Almon Equipment Limited	Attorney General of Canada	A—46—12 Application dismissed (December 5, 2012)
PR-2012-010	Thales Canada Inc.	Thales Canada Inc.	A—368—12 Application discontinued (February 7, 2013)
PR-2012-014	Weir Canada Inc.	Weir Canada Inc.	A—430—12 Application dismissed (February 6, 2013)
PR-2012-013	Team Sunray and CAE Inc.	Team Sunray and CAE Inc.	A—497—12 Application discontinued (February 12, 2013)
PR-2012-015	Storeimage	Storeimage	A—66—13 In progress
Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal usually does not 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 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 on an assessment or determination of federal sales tax or excise tax.

The appeal process is set in motion when a written notice of appeal is filed with the Secretary of the Tribunal within the time limit specified in the act under which the appeal is made. Certain procedures and time constraints are imposed by law and by the *Rules*; however, at the same time, the Tribunal strives to encourage a relatively informal, accessible, transparent and fair proceeding.

Under the *Rules*, the person launching the appeal (the appellant) 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 limits and procedural requirements. Ordinarily, within 60 days after having received the appellant's brief, the respondent must file with the Tribunal a brief setting forth the respondent's position and provide a copy to the appellant. The Secretary of the Tribunal, when acknowledging receipt of the appeal, schedules a hearing date. Hearings are generally conducted in public. The Tribunal publishes a notice of the hearing in the *Canada Gazette* to allow other interested persons to attend. Depending on the act under which the appeal is filed, the complexity and potential significance of the matter at issue, appeals will be heard by a panel of one or three members. Persons may intervene in an appeal by filing a notice stating the nature of their interest in the appeal and indicating the reason for intervening and how they would 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. In accordance with rule 25 of the *Rules*, appeals can be heard by way of a hearing at which the parties or their counsel appear before the Tribunal, by way of videoconference or by way of written submissions (file hearing).

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. 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 in the *Canada Gazette* to allow other interested persons to participate.

Within 120 days of the hearing, the Tribunal endeavours to issue a decision on the matters in dispute, including the reasons for the decision.

If the appellant, the respondent or an intervener disagrees with the Tribunal's decision, the decision can be appealed on a question of law to the Federal Court of Appeal or, in the case of the *Excise Tax Act*, the Federal Court (where the case will be heard *de novo* by the 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 CBSA. The Tribunal may grant such an application after the CBSA has refused an application under section 60.1 or when 90 days have elapsed after the application was made and the person has not been notified of the CBSA's decision. Under section 67.1, a person may apply 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*, granting extensions of time in three cases (in which one was granted in part) and denying the application in one case. There were six requests under the *Customs Act* 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 in which to serve a notice of objection with the Minister of National Revenue under section 81.15 or 81.17 or file a notice of appeal with the Tribunal under section 81.19. During the fiscal year, the Tribunal issued three orders under the *Excise Tax Act* granting extensions of time. There were no requests under the *Excise Tax Act* outstanding at the end of the fiscal year.

Appeals Received and Heard

During the fiscal year, the Tribunal received 73 appeals. The Tribunal heard 22 appeals, 18 under the *Customs Act*, 2 under the *Excise Tax Act* and 2 under *SIMA*. It issued decisions on 40 appeals, which consisted of 30 appeals under the *Customs Act* (including a remanded case), 7 under the *Excise Tax Act* and 3 under *SIMA*. Eighty-six appeal cases were outstanding at the end of the fiscal year.

Appeals Before the Tribunal in Fiscal Year 2012-2013

Appeal No.	Appellant	Date of Decision	Status/Decision
<i>Customs Act</i>			
AP-2009-080R	M. Miner	July 20, 2012	Appeal dismissed
AP-2009-014	Transport Desgagnés Inc.	June 20, 2012	Appeal dismissed
AP-2009-046	Igloo Vikski Inc.	January 16, 2013	Appeal dismissed
AP-2009-064	Pexcor Manufacturing Company Ltd.		In abeyance
AP-2009-065	Mathews Equipment Limited		In abeyance
AP-2010-002	Frito-Lay Canada, Inc.	December 21, 2012	Appeal allowed
AP-2010-006	Komatsu International (Canada) Inc.	April 10, 2012	Appeal dismissed
AP-2010-033	Contech Holdings Canada Inc.	May 17, 2012	Appeal dismissed
AP-2010-041	Royal Canadian Mint	May 11, 2012	Appeal withdrawn
AP-2010-042	Contech Holdings Canada Inc.	May 17, 2012	Appeal dismissed
AP-2010-047	Triple E Canada Ltd.	October 9, 2012	Appeal withdrawn
AP-2010-048	Pleasure-Way Industries Ltd.	October 9, 2012	Appeal withdrawn
AP-2010-049	Leisure Travel Vans (1999) Ltd.	October 9, 2012	Appeal withdrawn
AP-2010-062	Irwin Naturals		In abeyance
AP-2010-068	Kwality Imports	August 3, 2012	Appeal dismissed
AP-2011-003	Abricot International Inc.	February 1, 2013	Appeal withdrawn
AP-2011-008	Jockey Canada Company	December 20, 2012	Appeal dismissed
AP-2011-011	Bauer Hockey Corporation	April 26, 2012	Appeal dismissed
AP-2011-014	De Ronde Tire Supply, Inc.		In abeyance
AP-2011-016	Abricot International Inc.	February 1, 2013	Appeal withdrawn
AP-2011-018	HBC Imports c/o Zellers Inc.	April 11, 2012	Appeal dismissed
AP-2011-020	Canadian Tire Corporation Limited	April 12, 2012	Appeal dismissed
AP-2011-021	Performance Steel Specialties Inc.	May 29, 2012	Appeal dismissed
AP-2011-023	Curve Distribution Services	June 15, 2012	Appeal dismissed
AP-2011-024	Canadian Tire Corporation Limited	May 22, 2012	Appeal allowed
AP-2011-025	Abricot International Inc.	February 1, 2013	Appeal withdrawn
AP-2011-029	Elfe Juvenile Products	June 15, 2012	Appeal allowed
AP-2011-030	Grodan Inc.	June 7, 2012	Appeal allowed
AP-2011-031	Grodan Inc.	June 1, 2012	Appeal allowed
AP-2011-032	IC Companys Canada Inc.	June 27, 2012	Appeal withdrawn
AP-2011-033	Costco Wholesale Canada Ltd.		In abeyance
AP-2011-034	Heidelbert Canada Graphic Equipment Limited	April 5, 2012	Appeal withdrawn
AP-2011-037	Densigraphix Kopi Inc.	April 25, 2012	Appeal withdrawn
AP-2011-040	La Sagesse de l'eau	November 13, 2012	Appeal dismissed
AP-2011-041	La Sagesse de l'eau	November 13, 2012	Appeal dismissed
AP-2011-042	Philips Electronics Ltd.	May 29, 2012	Appeal dismissed
AP-2011-043	Costco Wholesale Canada Ltd.	April 27, 2012	Appeal withdrawn
AP-2011-047	Lallemand Inc.	November 14, 2012	Appeal withdrawn
AP-2011-048	CP Regional Power Services Limited Partnership	April 2, 2012	Appeal withdrawn
AP-2011-049	Cycles Lambert Inc.	November 22, 2012	Appeal dismissed
AP-2011-050	Cherry Stix Ltd.	June 7, 2012	Appeal withdrawn
AP-2011-051	Lever Arms Service Ltd.	April 4, 2012	Appeal withdrawn
AP-2011-052	Winners Merchants International	August 2, 2012	Appeal withdrawn
AP-2011-055	Monterra Lumber Mills, Ltd.	October 22, 2012	Appeal dismissed

Appeals Before the Tribunal in Fiscal Year 2012-2013 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2011-056	George Courey Inc.	September 5, 2012	Appeal withdrawn
AP-2011-057	Marmen Énergie Inc.	December 14, 2012	Appeal dismissed
AP-2011-058	Marmen Inc.	December 14, 2012	Appeal dismissed
AP-2011-059	Outdoor Gear Canada		In abeyance
AP-2011-060	Cycles Lambert Inc.		In progress
AP-2011-061	Starkey Labs Canada Co.	August 29, 2012	Appeal dismissed
AP-2011-063	Casio Canada Ltd.	September 18, 2012	Appeal withdrawn
AP-2011-065	Proctor-Silex Canada		In progress
AP-2011-066	Fort Garry Industries Ltd.	July 27, 2012	Appeal withdrawn
AP-2011-067	S. F. Marketing Inc.	August 6, 2012	Appeal withdrawn
AP-2011-070	Robert Bosch Inc.	October 17, 2012	Appeal withdrawn
AP-2011-071	Outdoor Gear Canada	January 17, 2013	Appeal withdrawn
AP-2011-072	FMC Technologies Company	May 2, 2012	Appeal withdrawn
AP-2011-074	Coming Cable Systems LLC		In progress
AP-2011-075	Jan K. Overweel Limited	February 5, 2013	Appeal allowed
AP-2011-076	Coming Cable Systems LLC		In progress
AP-2012-001	Wolseley Canada Inc. Western Division	November 12, 2012	Appeal withdrawn
AP-2012-004	Holland Hitch of Canada Limited	January 18, 2013	Appeal allowed
AP-2012-005	Gestion Soprema Canada Inc./Holding Soprema Canada Inc.	October 11, 2012	Appeal withdrawn
AP-2012-008	Commonwealth Wholesale Corp.	January 3, 2013	Appeal withdrawn
AP-2012-009	Volpak Inc.		In progress
AP-2012-011	High Output Sports Canada Inc.		In abeyance
AP-2012-012	Outdoor Pursuits Canada	July 15, 2012	Appeal withdrawn
AP-2012-013	G. Thériault	March 12, 2013	Appeal dismissed
AP-2012-014	Spectra Premium Industries Inc.		In abeyance
AP-2012-015	P B Footwear (Canada) Inc.	February 4, 2013	Appeal withdrawn
AP-2012-017	Oceaneering Canada Limited		In abeyance
AP-2012-018	Helly Hansen Canada Limited		In abeyance
AP-2012-019	S. Dunlay	January 13, 2013	Appeal withdrawn
AP-2012-021	Fiberlinks Textiles Inc.		In progress
AP-2012-022	Andritz Hydro Canada Inc. and VA Tech Hydro Canada Inc.		In progress
AP-2012-023	J. Hains		In abeyance
AP-2012-024	Patene Building Supplies Ltd.	October 12, 2012	Appeal withdrawn
AP-2012-026	Euro-Line Appliances		In progress
AP-2012-028	Sennheiser Canada Inc.	January 17, 2013	Appeal withdrawn
AP-2012-029	Abond Corporation	January 18, 2013	Appeal withdrawn
AP-2012-031	Curry's Art Stores		In progress
AP-2012-032	J.-F. Houle Inc.	September 18, 2012	Appeal withdrawn
AP-2012-033	Synnex Canada Limited	February 18, 2013	Appeal withdrawn
AP-2012-034	Federal-Mogul Canada Limited		In progress
AP-2012-036	BalanceCo		In progress
AP-2012-037	Northern Amerex Marketing Inc.		In abeyance
AP-2012-040	G & J Imports	February 22, 2013	Appeal dismissed
AP-2012-041	Costco Wholesale Canada		In progress

Appeals Before the Tribunal in Fiscal Year 2012-2013 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2012-042	Costco Wholesale Canada Ltd.	January 28, 2013	In progress
AP-2012-043	Global Hydraulic Solutions Inc.		In progress
AP-2012-045	D. Andrews		In progress
AP-2012-046	Hunter Douglas Canada LP		Appeal withdrawn
AP-2012-049	CE Franklin Ltd.		In progress
AP-2012-051	Brisk Industry Co., Ltd.		In abeyance
AP-2012-052	Cross Country Parts Distributors Ltd.		In abeyance
AP-2012-053	Gregg Distributors Co. Ltd.		In abeyance
AP-2012-054	J. E. Mondou Ltée		In abeyance
AP-2012-055	L. Lavoie		In progress
AP-2012-056	Gestion Soprema Canada Inc./Holding Soprema Canada Inc.		In progress
AP-2012-057	Costco Wholesale Canada Ltd.	In progress	
AP-2012-058	Kinedyne Canada Ltd.	In progress	
AP-2012-060	Cycles Lambert Inc.	In progress	
AP-2012-061	Groupe Procycle Inc.	In abeyance	
AP-2012-062	Cycles Marinoni Inc.	In abeyance	
AP-2012-063	Cycles Argon-18 Inc.	In abeyance	
AP-2012-064	Norco Products Ltd.	In abeyance	
AP-2012-065	R. Atkinson	In progress	
AP-2012-066	Wolseley Canada	In progress	
AP-2012-067	Hudson Bay Company	In progress	
AP-2012-068	Costco Wholesale Canada Ltd.	In abeyance	
AP-2012-069	M. Olsen	In progress	
AP-2012-070	Cargill Inc.	In progress	
AP-2012-071	Precision Flange Company Ltd.	In abeyance	
AP-2012-072	R. Christie	In progress	
AP-2012-073	Skechers USA Canada, Inc.	In progress	
Excise Tax Act			
AP-2009-020	Laidlaw Carriers PSC Inc.	In abeyance	
AP-2009-021	Laidlaw Carriers Bulk GP Inc.	In abeyance	
AP-2009-022	Laidlaw Carriers Van GP Inc.	In abeyance	
AP-2009-023	Laidlaw Carriers Flatbed GP Inc.	In abeyance	
AP-2009-024	Transnat Express Inc.	In progress	
AP-2009-025	Golden Eagle Express Inc.	In abeyance	
AP-2009-026	Le Groupe G3 Inc.	In abeyance	
AP-2009-027	Vedder Transport Ltd.	In abeyance	
AP-2009-028	Warren Gibson Ltd.	In abeyance	
AP-2009-029	2810026 Canada Ltd.	In abeyance	
AP-2009-030	Warren Gibson Ltd.	In abeyance	
AP-2009-031	Q-Line Trucking Ltd.	In abeyance	
AP-2009-032	GST 2000 Inc.	In abeyance	
AP-2009-033	J & F Trucking Corporation	In abeyance	
AP-2009-034	Reimer Express Lines Ltd.	In abeyance	
AP-2009-035	Celadon Canada Inc.	In abeyance	
AP-2009-036	Cobra Trucking Ltd.	In abeyance	

Appeals Before the Tribunal in Fiscal Year 2012-2013 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2009-037	Motrux Inc.		In abeyance
AP-2009-038	L.E. Walker Transport Ltd.		In abeyance
AP-2009-039	Distribution Marcel Dion Inc.		In abeyance
AP-2009-040	Reimer Express Lines Ltd.		In abeyance
AP-2009-041	Direct Integrated Transportation		In abeyance
AP-2009-042	Harris Transport Ltd.		In abeyance
AP-2009-043	Benson Tank Lines Ltd.		In abeyance
AP-2011-054	United Independent Energy Group Inc.	July 13, 2012	Appeal dismissed
AP-2011-062	Fonds d'emprunt communautaire GIM	November 8, 2012	Appeal dismissed
AP-2011-068	81794 Canada Limited/Liquiterminals Ltd.	February 22, 2013	Appeal allowed
AP-2011-069	Tank Truck Transport Inc.	February 22, 2013	Appeal allowed
AP-2012-002	Imperial Oil Limited, McColl-Frontenac Petroleum Inc.		In progress
AP-2012-003	Imperial Oil Limited, McColl-Frontenac Petroleum Inc.		In progress
AP-2012-006	TST Truckload Express Inc.	February 22, 2013	Appeal allowed
AP-2012-007	Keena Truck Leasing & Transport Ltd.	February 22, 2013	Appeal allowed
AP-2012-016	CAN-AM Logistics Inc.	February 22, 2013	Appeal allowed
AP-2012-030	Inland Technologies Canada Incorporated	October 26, 2012	Appeal withdrawn
<i>Special Import Measures Act</i>			
AP-2011-015	Levolor Home Fashions Canada	May 22, 2012	Appeal allowed
AP-2011-027	Aluminart Products Limited	April 19, 2012	Appeal dismissed
AP-2011-039	United Wood Frames Inc.	June 7, 2012	Appeal dismissed
AP-2011-044	Anchorman Fasteners Ltd.	July 25, 2012	Appeal withdrawn
AP-2011-045	Ucan Fastening Products	July 25, 2012	Appeal withdrawn
AP-2011-073	Peak Products Manufacturing Inc.	November 16, 2012	Appeal withdrawn
AP-2012-010	Powers Industries Limited		In progress
AP-2012-020	Norstar Windows & Doors Ltd.	February 12, 2013	Appeal withdrawn
AP-2012-025	Regal Ideas Inc.		In progress
AP-2012-027	New-Line Products Ltd.	February 22, 2013	Appeal withdrawn
AP-2012-035	Canadian Tire Corporation		In progress
AP-2012-038	Colonial Élégance Inc.		In progress
AP-2012-039	Universal Consumer Products, Inc.		In progress
AP-2012-044	McLean Contracting		In progress
AP-2012-047	Salzgitter Mannesmann International (Canada) Inc.		In progress
AP-2012-048	Varsteel Ltd.		In progress
AP-2012-050	LIV Outdoor (International) Inc.		In progress
AP-2012-059	Maine Ornamental, LLC		In progress

Summary of Selected Decisions

Of the many cases heard by the Tribunal, several decisions issued during the fiscal year 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, including one appeal heard pursuant to the *Customs Act*, one appeal pursuant to *SIMA* and one appeal pursuant to the *Excise Tax Act*. These summaries have been prepared for general information purposes only and are not intended to be of any legal value.

AP-2011-031—Grodan Inc. v. President of the Canada Border Services Agency

This appeal was filed pursuant to subsection 67(1) of the *Customs Act* from a decision by the CBSA made pursuant to subsection 60(4) with respect to the tariff classification of plastic plant clips and rings designed to support plant stems, imported by Grodan Inc. (Grodan). Grodan challenged the CBSA's decision under section 60 on the basis that the underlying decisions under section 59 were invalid because the CBSA was time-barred from making a further re-determination of the tariff classification of the goods in issue. A preliminary matter was whether the Tribunal had jurisdiction to examine the issue raised in this appeal. The Tribunal found that it had the authority pursuant to section 67 to determine the correctness and validity of a decision under section 60. In the Tribunal's view, the validity of such a decision is a matter related to its correctness; therefore, the Tribunal has the authority to deal with it by making such order, finding or declaration as the nature of the matter may require. The Tribunal concluded that the CBSA did not have the authority to make further re-determinations under section 59; therefore, the appeal was allowed.

AP-2011-015—Levolor Home Fashions Canada v. President of the Canada Border Services Agency

This appeal was filed pursuant to subsection 61(1) of *SIMA* from a decision made by the CBSA pursuant to section 59 with respect to requests for re-determination under section 58 relating to 13 shipments of aluminum extrusions. The CBSA found that the goods in issue did not meet the requirements of the product exclusion granted by the Tribunal in Inquiry No. NQ-2008-003. The Tribunal found that the goods in issue were of the same description as the goods to which the product exclusion applied. The appeal was allowed.

AP-2011-054—United Independent Energy Group Inc. v. Minister of National Revenue

This appeal was filed pursuant to section 81.19 of the *Excise Tax Act* from an assessment of the Minister of National Revenue that imposed excise tax on fuel that United Independent Energy Group Inc. (United) purchased as heating oil but subsequently sold as diesel fuel. The issues in this appeal were threefold: (1) whether the Minister of National Revenue properly assessed United for failing to remit excise tax on diverted fuel; (2) whether United should be considered a "licensed wholesaler" within the meaning assigned to that expression by section 42; and (3) whether the Tribunal can order the Minister of National Revenue to waive or cancel interest and penalties that have been assessed under the *Excise Tax Act*. The Tribunal found the following: (1) the Minister of National Revenue properly assessed United pursuant to subsection 23(9.1) for failing to remit excise tax on diverted fuel; (2) the Tribunal lacked jurisdiction to consider the matter in the context of this appeal, since United had never formally applied to become a licensed wholesaler and the Minister of National Revenue never rendered a decision in this respect; and (3) the Tribunal could not grant United's request that the interest and penalties assessed against it be waived or cancelled because the decisions of the Minister of National Revenue pursuant to section 88 are discretionary in nature and may not be appealed to the Tribunal. The appeal was dismissed.

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

Appeal No.	Appellant Before the Tribunal	Appellant Before the Court	File No./Status
AP-2009-081	Disco-Tech Industries, Inc.	Disco-Tech Industries, Inc.	A—392—11 Appeal discontinued (June 25, 2012)
AP-2010-025	Masai Canada Limited	President of the Canada Border Services Agency	A—418—11 Appeal dismissed (October 16, 2012)
EP-2011-002	Volpak Inc.	Volpak Inc.	A—51—12 Appeal dismissed (November 13, 2012)
AP-2011-018	HBC Imports c/o Zellers Inc.	HBC Imports c/o Zellers Inc.	A—306—12 In progress
AP-2011-015	Levolor Home Fashion Canada	President of the Canada Border Services Agency	A—336—12 Appeal dismissed (January 10, 2013)
AP-2011-030	Grodan Inc.	President of the Canada Border Services Agency	A—381—12 In progress
AP-2011-057 and AP-2011-058	Marmen Énergie Inc. and Marmen Inc.	Marmen Énergie Inc. and Marmen Inc.	A—64—13 In progress
AP-2009-046	Igloo Vikski Inc.	Igloo Vikski Inc.	A—65—13 In progress
AP-2010-002	Frito-Lay Canada Inc.	President of the Canada Border Services Agency	A—103—13 In progress
<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>			



CHAPTER VI

STANDING TEXTILE REFERENCE

Introduction

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, in respect of those requests, to make recommendations 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.

During fiscal year 2012-2013, the Tribunal received no requests for tariff relief and did not issue any reports to the Minister of Finance.

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 of the schedule to the *Customs Tariff*; 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. 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 for 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 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 100 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 the continuation of tariff relief.

Summary of Activities

New Requests

	2011-2012	2012-2013
Requests		
Received	-	-
Withdrawn	-	-
Awaiting the initiation of an investigation	-	-
Investigations completed during the fiscal year	-	-
Investigations in progress at end of the fiscal year	-	-
Recommendations to the Minister of Finance		
Tariff relief	-	-
No tariff relief	-	-
Reports to the Minister of Finance	-	-
Cumulative totals (since 1994)		
Requests received	187	187
Recommendations to the Minister of Finance		
Tariff relief	115	115
No tariff relief	49	49