

ANNUAL REPORT

**FOR THE FISCAL YEAR ENDING
MARCH 31, 2014**

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June 17, 2014

The Honourable Joe Oliver, 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, 2014.

Yours sincerely,

Stephen A. Leach
Chairperson

TABLE OF CONTENTS

Chapter I Highlights.....	1
Chapter II Mandate, Organization and Activities	7
Chapter III Trade Remedy Inquiries and Reviews	13
Chapter IV Procurement Review	27
Chapter V Appeals	35
Chapter VI Standing Textile Reference.....	43



CHAPTER I

HIGHLIGHTS

The Canadian International Trade Tribunal (the Tribunal) 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 customs and excise tax appeals on customs and excise tax matters. At the request of the Government, the Tribunal provides advice in tariff, trade, commercial and economic matters.

The Tribunal is proudly celebrating its 25th anniversary this year. The Tribunal, which began operations in 1989, is the result of successfully merging four federal tribunals—the Tariff Board, which had been in existence since 1931, the Canadian Import Tribunal, whose predecessor, the Anti-Dumping Tribunal, dated back to 1968, the Textile and Clothing Board, which was established in 1971, and the Procurement Review Board of Canada, which was founded in 1988.

Each of the Tribunal's predecessors evolved in response to particular historical trade issues. In 1904, Canada was the first country to pass anti-dumping legislation, but it was not until the completion of the Kennedy Round of the *General Agreement on Tariffs and Trade* multilateral trade negotiations in the 1960s that Canada required an independent tribunal to adjudicate the question of whether the dumping of imported goods caused material injury to domestic production before anti-dumping duties could be levied.

Today, the Tribunal has the consolidated investigative, adjudicative and advisory functions of its predecessors, and, in any given year, the impact of its decisions can exceed \$5 billion and lead to the creation and retention of thousands of jobs in Canada.

Moreover, across all areas of its mandate, the Tribunal is recognized as a centre of excellence internationally and domestically. In fiscal year 2013-2014, none of the Tribunal's decisions was overturned.

Trade Remedies

The Tribunal plays a significant role within Canada's trade remedy system. Under the *Special Import Measures Act (SIMA)*, the Tribunal determines whether the dumping and subsidizing of imported goods cause injury or threaten to cause injury to a domestic industry. As of December 31, 2013, there were 25 *SIMA* findings and orders in force, affecting approximately \$7.7 billion in shipments, \$0.5 billion in investments, 22,000 direct jobs and \$1.2 billion in imports, representing about 2.18 percent of Canadian shipments, 1.70 percent of Canadian investments, 1.07 percent of Canadian employment and 0.32 percent of Canadian imports.¹

In fiscal year 2013-2014, the Tribunal faced an exceptionally challenging workload: not only was the number of trade remedy cases the highest in a decade, but many of these cases arrived almost simultaneously, in a period of less than six weeks. Despite this extremely elevated caseload and the time constraints faced by the Tribunal under its legislated deadlines, the Tribunal successfully met all statutory deadlines: all staff reports, decisions and reasons were issued on time and all met the Tribunal's high quality standards. This notable accomplishment would have been impossible without the hard work, professionalism and dedication of all staff and members.

Procurement Review

During fiscal year 2013-2014, the Tribunal received 49 new procurement complaints and issued 46 decisions on whether to accept the complaints for inquiry. The Tribunal also issued final decisions on merit where complaints were accepted for inquiry. Combined, this represents a total of 60 decisions. The 49 complaints that the Tribunal received in this fiscal year pertained to 44 different contracts with a collective value of over \$128 million.² All procurement decisions were issued within the Tribunal's statutory deadlines.

The Tribunal also sought to improve access to the procurement complaint process. More details are found in Chapter IV.

Appeals

Pursuant to *SIMA*, the *Customs Act* and the *Excise Tax Act*, a total of 61 appeals were filed with the Tribunal during the reporting period. The Tribunal issued decisions in 33 appeals from decisions of the President of the Canada Border Services Agency (CBSA) pursuant to the *Customs Act*, 1 decision under the *Excise Tax Act* and 8 decisions under *SIMA*. The Tribunal has an internal standard of 120 days from the

1. The value of Canadian shipments, investments and imports and the level of Canadian employment are derived from Statistics Canada data. The value of Canadian shipments is the sum of the value of farm cash receipts and manufacturing shipments, less total Canadian merchandise exports in agricultural and manufactured products. The value of Canadian investments is the sum of capital expenditures in agriculture, forestry, fishing and hunting and in manufacturing. Canadian employment is the sum of employment in agricultural and manufacturing industries. Canadian imports are the total value of Canadian imports less re-exports. These definitions also apply to annual reports for the years 2010-2011, 2011-2012 and 2012-2013.
2. The collective value of the 49 complaints received in this fiscal year does not reflect the exact total value of the contracts. Of the 49 complaints, 6 contained unknown contract values, and nine complaints were filed against four contracts that had the same solicitation number. By comparison, in fiscal year 2009-2010, the Tribunal received 154 complaints with a collective value of over \$416 million; in fiscal year 2010-2011, the Tribunal received 94 complaints with a collective value of over \$2 billion; in fiscal year 2011-2012, the Tribunal received 62 complaints with a collective value of over \$260 million; and, in fiscal year 2012-2013, the Tribunal received 43 complaints with a collective value of over \$318 million.

hearing date within which it endeavours to render its appeal decisions. All decisions issued in 2013-2014 were issued within this time frame.

Outreach Activities

The Tribunal is internationally recognized as a centre of excellence in the various areas of its mandate. Tribunal members and staff regularly make presentations before various international, legal, administrative and academic bodies. The Tribunal regularly hosts foreign delegations interested in learning about the areas of its mandate. In fiscal year 2013-2014, Tribunal staff gave presentations to a delegation from the Chinese Ministry of Commerce and to officials from Colombia. Tribunal staff also regularly makes presentations to other government departments and agencies involved in international trade. During fiscal year 2013-2014, Tribunal staff held a technical exchange with the United States Government Accountability Office, with the United States International Trade Commission and with the United States Department of Commerce. In addition, the Tribunal made its expertise available to Canada's trade negotiators in the context of providing the practitioner's point of view on various trade agreements.

Caseload

The first table below contains statistics pertaining to the Tribunal's caseload for 2013-2014. The second table contains statistics relating to other case-related activities in 2013-2014. These statistics illustrate the complexity and diversity of the cases considered by the Tribunal.

Tribunal Caseload Overview—2013-2014

	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, 2014)
Trade remedies								
Preliminary injury inquiries	1	3	4	N/A	N/A	4	-	-
Inquiries	-	5	5	N/A	N/A	4	-	1
Requests for public interest inquiries	-	2	2	-	-	-	1	1
Public interest inquiries	-	-	-	-	-	-	-	-
Requests for interim reviews	3	2	5	2	3	5	-	-
Interim reviews	-	3	3	N/A	N/A	2	-	1
Expiries ¹	2	3	5	3	1	4	-	1
Expiry reviews	2	3	5	N/A	N/A	5	-	-
Remanded cases	-	-	-	N/A	N/A	-	-	-
TOTAL	8	21	29	5	4	24	1	4
Procurement								
Complaints received	-	49	49	20	26	46	2	1
Complaints accepted for inquiry	2	N/A	2	N/A	N/A	14	-	8
Remanded cases ²	-	-	-	N/A	N/A	-	N/A	-
TOTAL	2	49	51	20	26	60	2	9
Appeals								
Extensions of time								
<i>Customs Act</i>	6	-	6	N/A	N/A	2	4	-
<i>Excise Tax Act</i>	-	1	1	N/A	N/A	1	-	-
TOTAL	6	1	7	N/A	N/A	3	4	-
Appeals								
<i>Customs Act</i>	50	57	107	N/A	N/A	33	34	40
<i>Excise Tax Act</i>	26	1	27	N/A	N/A	1	-	26
<i>Special Import Measures Act</i>	10	3	13	N/A	N/A	8	2	3
Remanded cases	-	-	-	N/A	N/A	-	-	-
TOTAL	86	61	147	N/A	N/A	42	36	69
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 2013-2014

	Trade Remedy Activities	Procurement Review Activities	Appeals	Standing Textile Reference	TOTAL
Orders					
Disclosure orders	23	-	-	-	23
Cost award orders	N/A	5	N/A	N/A	5
Compensation orders	N/A	-	N/A	N/A	-
Production orders	3	1	-	-	4
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	91	-	-	-	91
Motions	2	6	3	-	11
Subpoenas	2	-	-	-	2
Other statistics					
Public hearing days	28	-	39	-	67
File hearings ¹	13	40	12	-	65
Witnesses	100	-	54	-	154
Participants	188	65	169	-	422
Questionnaire replies	274	N/A	N/A	-	274
Pages of official records ²	97,136	14,770	40,978	-	152,884
<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 a 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, customs and excise tax appeals 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* and the *Canadian International Trade Tribunal Rules (Rules)*.

Mandate

Pursuant to section 16 of the *CITT Act*, the Tribunal's functions are to:

- inquire into whether dumped or subsidized imports have caused or are threatening to cause material injury to a domestic industry or have caused the material retardation of the establishment of a domestic industry, and to hear appeals of related enforcement decisions of the CBSA;
- hear appeals from decisions of the CBSA made under the *Customs Act* and of the Minister of National Revenue under the *Excise Tax Act*;

- 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)*, the *Canada-Colombia Free Trade Agreement (CCOFTA)* and the *Canada-Panama Free Trade Agreement (CPAFTA)*; and
- inquire into safeguard complaints by domestic producers; and
- provide advice to the Government of Canada on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance.

Governing Legislation

Section	Authority
CITTA 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
19.0131 and 20.031	Safeguard inquiries concerning goods imported from Panama 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(1.081), 26(1)(a)(i.81) and 27(1)(a.81)	Safeguard complaints by domestic producers concerning goods imported from Panama
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 dispose of 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 (hearings based on written submissions alone) or public hearings. Public hearings are normally held at the Tribunal's hearing rooms in Ottawa, Ontario. Public hearings may also be held elsewhere in Canada. In accordance with section 35 of the *CITT Act*, hearings are 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, communiqués 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 tailor their subscription to their specific category of interest.

Members of the Tribunal

The Tribunal may be composed of up to seven full-time members, including the Chairperson. 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 members 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 62 public servants. 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 implementation and 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

TRADE REMEDY 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 or is threatening to cause material injury to a domestic industry or has caused material retardation to the establishment of 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 notice of the commencement of the preliminary injury inquiry is provided to all known interested parties.

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 at the preliminary injury inquiry stage. 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 no later than 15 days after its determination.

Preliminary Injury Inquiry Activities

	PI-2012-006	PI-2013-001	PI-2013-002	PI-2013-003
Product	Unitized wall modules	Silicon metal	Circular copper tube	Hot-rolled carbon steel plate
Type of case/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/Brazil, Greece, China, Korea and Mexico	Dumping/Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and Korea
Date of determination	May 3, 2013	June 21, 2013	July 22, 2013	November 4, 2013
Determination	Reasonable indication of injury or threat of injury	Reasonable indication of injury or threat of injury	Reasonable indication of injury or threat of injury	Reasonable indication of injury or threat of injury
Participants	13	3	8	11
Pages of official record	3,000	7,500	2,575	1,840

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

Final Injury Inquiries

If the CBSA makes a preliminary determination of dumping or subsidizing, the Tribunal commences a final injury inquiry pursuant to 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 it makes a final determination of dumping or subsidizing.

As in a preliminary injury inquiry, the Tribunal seeks to make all interested parties aware of its inquiry. It issues a notice of commencement of inquiry that is published in the *Canada Gazette* and notice of the commencement of the injury inquiry is 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 questionnaires to Canadian producers, importers, purchasers, foreign producers and exporters. Primarily on the basis of questionnaire responses, the Tribunal prepares an investigation 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 may 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 some 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 or subsidizing issued by the CBSA. It has an additional 15 days to issue 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-2013-001	NQ-2013-002	NQ-2013-003	NQ-2013-004	NQ-2013-005
Product	Galvanized steel wire	Unitized wall modules	Silicon metal	Circular copper tube	Hot-rolled carbon steel plate
Type of case/country	Dumping and subsidizing/China, Israel and Spain	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/Brazil, Greece, China, Korea and Mexico	Dumping/Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and Korea
Date of finding	August 20, 2013	November 12, 2013	November 19, 2013	December 18, 2013	In progress
Finding	No injury, retardation or threat of injury	Threat of injury	Threat of injury	Injury	
Questionnaires sent	135	180	335	99	
Questionnaires received	37	62	23	41	
Requests for exclusions	1	-	-	-	
Requests for exclusions granted	-	-	-	-	
Participants	9	13	5	9	
Pages of official record	8,150	11,710	7,500	9,387	
Public hearing days	5	5	5	3	
Witnesses	14	24	13	8	

Final Injury Inquiries Completed in the Fiscal Year

As illustrated in the above table, the Tribunal completed four final injury inquiries in the fiscal year. The completed inquiries concerned galvanized steel wire, unitized wall modules, silicon metal and circular copper tube. The following summaries were prepared for general information purposes only.

This inquiry concerned dumped galvanized steel wire imported from China, Israel and Spain and subsidized galvanized steel wire imported from China (the subject wire).

The Tribunal sent requests to complete questionnaires to 6 known Canadian producers, 31 potential importers, 20 potential purchasers and 78 potential foreign producers and exporters of galvanized steel wire. Of the 135 requests sent, the Tribunal received 37 responses, of which 33 were used in the Tribunal's analysis.

There were 9 participants to the inquiry. During a five-day hearing, 14 witnesses appeared before the Tribunal. The official record contained 8,150 pages.

The Tribunal first determined that galvanized steel wire produced in Canada, defined in the same manner as the subject wire, was like goods in relation to the subject wire and that there was a single class of goods. The Tribunal then determined that four of the domestic producers generally constituted the domestic industry, although it was able to assess certain impacts of the dumped and subsidized goods upon all six domestic producers.

The Tribunal observed that the volume of imports of the subject wire increased significantly during the period of inquiry (POI), both in absolute terms and relative to the production of the like goods and the domestic sales of the like goods. It noted that, although prices of the subject wire undercut those of the like goods in certain market segments, on balance, the prices of the subject wire had not significantly undercut the prices of the like goods during the POI. Moreover, the Tribunal found that the subject wire did not lead to significant price depression or suppression.

The Tribunal observed that the domestic industry increased its sales from domestic production throughout the POI, with the exception of the first quarter of 2013, and this decline in sales was largely attributed to a reduction in demand for zinc-coated chain-link fence wire. The domestic industry's market share remained flat throughout 2010 and 2011, increased slightly in the first quarter of 2012, and then decreased for the remainder of the POI. The Tribunal was also of the view that, even though the domestic industry's financial performance was poor throughout the POI, it improved in the latter part of the POI. The Tribunal concluded its injury analysis by determining that any effects that the subject wire had on the domestic industry's declining productivity was secondary to other factors, such as labour relations and production methods. Furthermore, the Tribunal noted that the subject wire had no discernible effect on the workforce and that there was little evidence submitted to show any other negative financial impacts experienced by the domestic industry.

The Tribunal noted that slow demand, weak export performance, high costs, underinvestment and a lack of innovation also weighed on the domestic industry. Moreover, other factors such as corporate turmoil, prolonged labour problems and exchange rate fluctuations impacted the domestic industry.

The Tribunal concluded that the domestic industry was affected by the dumping and subsidizing of the subject wire. However, the adverse impact was only experienced for a limited duration and limited extent in terms of production volume, sales, revenue, income statement and market share, particularly in the first quarter of 2013. Therefore, the Tribunal observed that, while the subject wire did have an adverse impact on the domestic industry, it was not sufficient to constitute material injury.

The Tribunal noted that, even if the volumes of the subject wire were to increase significantly, it was unlikely that they would have sudden significant price effects in the following year. Despite a significant margin of dumping and amount of subsidy, at least in the case of China, the subject wire did not significantly undercut, depress or suppress the price of like goods during the POI. The Tribunal saw little or no evidence that this would likely change. The Tribunal was of the view that the subject wire increased its market share without significantly underselling the domestic industry because it did not directly compete across the various product segments. Therefore, the Tribunal concluded that there were no clearly foreseeable and/or imminent circumstances that the dumping and subsidizing of the subject wire were threatening to cause injury to the domestic industry.

NQ-2013-002—Unitized Wall Modules

This inquiry concerned dumped and subsidized unitized wall modules imported from China (the subject unitized wall modules).

The Tribunal sent requests to complete questionnaires to 35 Canadian producers, 32 potential importers, 38 potential purchasers and 75 potential foreign producers and exporters of unitized wall modules. Of the 180 requests sent, the Tribunal received 62 responses, of which 35 were used in the Tribunal's analysis.

There were 13 participants to the inquiry. During a five-day hearing, 24 witnesses appeared before the Tribunal. The official record contained 11,710 pages.

The Tribunal first determined that domestically produced stick systems and point-fixing systems were not like goods in relation to the subject unitized wall modules. Next, the Tribunal determined that domestically produced unitized window wall modules and unitized curtain wall modules were like goods in relation to the subject unitized wall modules and that the like goods and the subject unitized wall modules comprised a single class of goods. Finally, the Tribunal determined that, although not all domestic producers provided a questionnaire response, those domestic producers that did submit data collectively accounted for a major proportion of domestic production and constituted the domestic industry.

The Tribunal found that the dumping and subsidizing of the subject unitized wall modules had not caused material injury to the domestic industry. The Tribunal found that the volume of imports of the subject unitized wall modules did have a negative effect on the state of the domestic industry in the form of lost sales and revenue, erosion of gross margins and reduction in net income. The Tribunal concluded, given the limited magnitude of the deterioration in certain price effects and performance indicators, the domestic industry's ability to maintain an overwhelming share of the domestic market, and the fact that the domestic industry remained largely profitable throughout the POI, that any injury incurred by the domestic industry through the effects of the dumping and subsidizing of the subject unitized wall modules was not material as prescribed by *SIMA*.

However, the Tribunal concluded that, in the following 12 to 24 months, significant volumes of the subject unitized wall modules were due to arrive in the domestic market, that more freely disposable production capacity was set to come online in China and that purchasers in Canada were likely to become progressively more inclined to switch to low-cost subject unitized wall modules if the risk of the imposition of anti-dumping and/or countervailing duties dissipated. On this basis, the Tribunal found that the dumping and subsidizing of unitized wall modules were threatening to cause injury to the domestic industry.

This inquiry concerned dumped and subsidized silicon metal imported from China (the subject silicon metal).

The Tribunal sent requests to complete questionnaires to 1 Canadian producer, 21 potential importers, 11 potential purchasers and 302 potential foreign producers, exporters and trading companies of silicon metal. Of the 335 requests sent, the Tribunal received 23 responses, all of which were used in the Tribunal's analysis.

There were 5 participants to the inquiry. During a five-day hearing, 13 witnesses appeared before the Tribunal. The official record contained 7,500 pages.

The Tribunal first determined that domestically produced silicon metal constituted like goods in relation to the subject silicon metal and that the like goods and the subject silicon metal comprised a single class of goods. The Tribunal also determined that Québec Silicon Limited Partnership (QSLP) and its affiliates, QSIP Canada ULC (QSIP Canada) and QSIP Sales ULC (QSIP Sales), were integrated into a single corporate group that was responsible for the domestic production and the sales of like goods either on the domestic merchant market or on export markets. Together, these entities were responsible for the production of the like goods and their arm's-length sales at the first level of distribution in the marketplace. As such, the Tribunal found that QSLP, QSIP Canada and QSIP Sales, considered together, constituted the domestic industry as a whole for the purposes of the inquiry.

The Tribunal found that, while, in absolute terms, the increase in the volume of the subject silicon metal during the POI might not appear to have been substantial, it was significant when considered in light of the size of the Canadian market and the market share that had been gained by imports of the subject silicon metal during the POI. In relative terms, throughout the POI, the ratio of total imports of the subject silicon metal to total domestic production of like goods was significant, and the ratio of total imports of the subject silicon metal to domestic sales of like goods was very high. The Tribunal observed that the subject silicon metal undercut the price of like goods by a significant degree during the POI. However, given the dearth of domestic pricing data on the record, the Tribunal could not conclude that the subject silicon metal had significantly depressed the price of like goods during the POI. Moreover, the Tribunal found that the reported data on the domestic industry's cost of goods sold were not reliable; therefore, there was an insufficient basis upon which to conclude that the domestic industry suffered significant price suppression during the POI.

The Tribunal found that the volume of domestic industry's sales of like goods in the domestic market fell dramatically in 2011 and remained substantially lower in 2012 compared to the volume sold in 2010. Moreover, the domestic industry's market share decreased at a faster rate than that of importers of the subject silicon metal from 2010 to 2012. The Tribunal also found that the domestic industry experienced poor financial results throughout the POI, following reductions in revenues and profit margins. However, the Tribunal concluded its injury analysis by determining that there was little evidence that the subject silicon metal had adversely affected the domestic industry's productivity, capacity utilization and investment. Overall, the Tribunal found that, to the extent that the subject silicon metal had had an adverse impact on the domestic industry, it was not sufficient to constitute material injury, as prescribed by *SIMA*.

The Tribunal concluded that the dumping and subsidizing of the subject silicon metal had not caused material injury but were threatening to cause material injury to the domestic industry. The Tribunal determined that the adverse effects sustained by the domestic industry due to the presence of the subject silicon metal during the latter part of the POI were likely to continue and even worsen in the following 12 to

18 months. The Tribunal observed that, while the likely increase in the volume of imports of the subject silicon metal might not be significant, in the context of the relatively small Canadian market and the small market share held by the domestic industry during the POI, even a small increase in volumes of imports would likely have a disruptive effect on the domestic industry in the following 12 to 18 months. In the Tribunal's view, in the absence of anti-dumping and countervailing duties, the subject silicon metal would result in significant price undercutting or depression and cause material injury to the domestic industry in the form of lost sales, reduced market share and decreased production levels.

NQ-2013-004—Circular Copper Tube

This inquiry concerned dumped circular copper tube imported from Brazil, Greece, China, Korea and Mexico, and subsidized circular copper tube imported from China (the subject tube).

The Tribunal sent requests to complete questionnaires to 1 Canadian producer, 25 potential importers, 32 potential purchasers and 41 potential foreign producers and exporters of circular copper tube. Of the 99 requests sent, the Tribunal received 41 responses, of which 32 were used in the Tribunal's analysis.

There were nine participants to the inquiry. During a three-day hearing, eight witnesses appeared before the Tribunal. The official record contained 9,387 pages.

The Tribunal first determined that domestically produced circular copper tube constituted like goods in relation to the subject tube and that the like goods and the subject tube comprised a single class of goods. The Tribunal also determined that Great Lakes Copper Inc., the only known domestic producer of like goods, constituted the totality of the domestic industry.

The Tribunal concluded that the volume of imports of the subject tube increased significantly over the POI, both in absolute terms and relative to the production and consumption of the like goods. The Tribunal noted that price was the defining factor in purchasing choices where there was widespread physical and functional interchangeability among the like goods and the subject tube. The Tribunal found that benchmark pricing data showed evidence of price undercutting by benchmark products from China and Korea, but little or no evidence of price undercutting by benchmark products from Brazil, Greece or Mexico. In addition, there was evidence of price undercutting by the subject tube from all countries in average unit pricing, although not throughout each period. The Tribunal also found that the subject tube significantly depressed and suppressed the price of the like goods.

The Tribunal also determined that the presence of the subject tube in the Canadian market had had a significant negative impact on the financial performance of the domestic industry in terms of profitability, return on investment and potential for growth. The Tribunal found that the domestic industry's productivity was not appreciably impacted during the POI, that capacity utilization rates for the like goods, direct employment and wages remained relatively stable, and that volume of inventories increased after 2011. Finally, the Tribunal noted that relatively low margins of dumping and amount of subsidy had been sufficient to cause significant price effects and resultant material injury to the domestic industry.

The Tribunal concluded that the dumping of circular copper tube imported from Brazil, Greece, China, Korea and Mexico, and the subsidizing of circular copper tube imported from China had caused injury.

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

There was one final injury inquiry in progress at the end of the fiscal year concerning hot-rolled carbon steel plate.

Public Interest Inquiries

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. The Tribunal may initiate, either after a request from an interested person or on its own initiative, a public interest inquiry following a finding of injury or threat 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. Two requests for public interest inquiries concerning circular copper tube were filed with the Tribunal in 2013-2014. One request was withdrawn during the fiscal year, and the remaining request was under consideration at the close of the fiscal year.

Interim Reviews

The Tribunal may review its findings of injury or threat 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 related expiry review or inquiry and were not discoverable by the exercise of reasonable diligence at the time.

Interim Review Activities

	Request for Interim Review No. RD-2011-005	Request for Interim Review No. RD-2011-006	Request for Interim Review No. RD-2012-001	Interim Review No. RD-2013-001	Interim Review No. RD-2013-002	Interim Review No. RD-2013-003
Product	Aluminum extrusions	Aluminum extrusions	Aluminum extrusions	Bicycles	Bicycles	Liquid dielectric transformers
Type of case/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping/Chinese Taipei and China	Dumping/Chinese Taipei and China	Dumping/Korea
Date of order	September 12, 2013	September 12, 2013	September 12, 2013	September 30, 2013	September 30, 2013	In progress
Order	No review	No review	No review	Order rescinded	Order rescinded	
Participants	10	10	9	12	12	
Pages of official record	356	500	400	363	363	

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 that commenced in the current fiscal year (RD-2013-001 and RD-2013-002), and rescinded its order made on December 7, 2012, in

Expiry Review No. RR-2011-002 respecting certain bicycles. As well, the Tribunal ruled on three requests for interim review received in the previous fiscal year (RD-2011-005, RD-2011-006 and RD-2012-001) and decided not to conduct an interim review regarding its findings made on March 17, 2009, in Inquiry No. NQ-2008-003 in respect of aluminum extrusions.

Interim review No. RD-2013-003 was in progress as of March 31, 2014.

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-2012-005	LE-2012-006	LE-2013-001	LE-2013-002	LE-2013-003
Product	Structural tubing	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Aluminum extrusions	Mattress innerspring units	Certain fasteners
Type of case/country	Dumping/Korea, South Africa and Turkey	Dumping/ Bulgaria, Czech Republic and Romania	Dumping and subsidizing/China	Dumping/China	Dumping and subsidizing/China and Chinese Taipei
Date of order or notice of expiry review	April 10, 2013	April 24, 2013	June 5, 2013	March 12, 2014	In progress
Decision	Expiry review initiated	Expiry review initiated	Expiry review initiated	No expiry review	
Participants	7	2	12	5	
Pages of official record	900	400	500	670	

As illustrated in the above table, the Tribunal decided to commence three 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 in respect of Expiry Review No. RR-2013-001 concerning structural tubing, Expiry Review No. RR-2013-002 concerning hot-rolled carbon steel plate and high-strength low-alloy steel plate, and Expiry Review No. RR-2013-003 concerning aluminum extrusions.

In Expiry No. LE-2013-002 concerning mattress innerspring units, the Tribunal decided not to initiate an expiry review of its finding made on November 24, 2009. The finding will therefore expire on November 23, 2014.

Expiry No. LE-2013-003 concerning fasteners was in progress as of March 31, 2014.

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 notice is provided 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-2012-003	RR-2012-004	RR-2013-001	RR-2013-002	RR-2013-003
Product	Carbon steel welded pipe	Thermoelectric containers	Structural tubing	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Aluminum extrusions
Type of case/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping/Korea, South Africa and Turkey	Dumping/Bulgaria, Czech Republic and Romania	Dumping and subsidizing/China
Date of order	August 19, 2013	December 9, 2013	December 20, 2013	January 7, 2014	March 17, 2014
Order	Finding continued	Finding continued	Order continued/Korea and Turkey Order rescinded/South Africa	Order continued	Findings continued
Questionnaires sent¹	303	107	80	42	764
Questionnaires received²	21	16	17	16	41
Participants	7	2	5	3	20
Pages of official record	6,659	4,193	4,000	7,000	19,100
Public hearing days	1	2	2	1	4
Witnesses	7	3	8	4	19
<ol style="list-style-type: none"> 1. Requests that expiry review questionnaires be completed are sent to a comprehensive list of known domestic producers and to all potential importers and exporters; the completed questionnaires 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, the Tribunal completed five expiry reviews during the reporting period.

RR-2012-003—Carbon Steel Welded Pipe

This expiry review concerned the dumping and subsidizing of carbon steel welded pipe, commonly identified as standard pipe, originating in or exported from China (the subject pipe).

The Tribunal sent requests to complete questionnaires to 12 potential Canadian producers, 27 potential importers and 264 potential foreign producers and exporters of carbon steel welded pipe. The Tribunal received 8 replies from Canadian producers, 18 replies from importers, of which 14 indicated that they were not importing the subject pipe and 4 indicated that they did not import carbon steel welded pipe at all during the period of review, and 1 reply from a foreign producer. Of these replies, 21 were used in the Tribunal's analysis.

There were seven participants in the expiry review, with seven witnesses appearing before the Tribunal during a one-day public hearing. The official record contained 6,659 pages.

The Tribunal was of the view that to allow the expiry of the finding would likely result in a significant increase in the volume of imports of the subject pipe at prices that could be expected to significantly undercut, depress and suppress those of the like goods, thereby causing material injury to the domestic industry. Consequently, on August 19, 2013, the Tribunal continued its findings in respect of the subject pipe.

RR-2012-004—Thermoelectric Containers

This expiry review concerned the dumping and subsidizing of thermoelectric containers originating in or exported from China (the subject thermoelectric containers).

The Tribunal sent requests to complete questionnaires to 2 known Canadian producers, 23 potential importers and 82 potential foreign producers and exporters of thermoelectric containers. The Tribunal received 1 reply from the largest domestic producer and 15 replies from importers, all of which were used in the Tribunal's analysis. The Tribunal received additional 7 replies from companies indicating that they did not import thermoelectric containers during the period of review and no replies from foreign producers or exporters.

There were two participants to the expiry review, with three witnesses appearing before the Tribunal during a two-day public hearing. The official record contained 4,193 pages.

The Tribunal was of the view that rescinding the finding would likely result in a significant increase in the volume of imports of the subject thermoelectric containers at prices that would undercut, depress and suppress those of the like goods, thereby causing material injury to the domestic industry. Consequently, on December 9, 2013, the Tribunal continued its finding in respect of the subject thermoelectric containers.

RR-2013-001—Structural Tubing

This expiry review concerned the dumping of structural tubing, commonly known as hollow structural sections, originating in or exported from Korea, South Africa and Turkey (the subject tubing).

The Tribunal sent requests to complete questionnaires to 10 potential Canadian producers, 35 potential importers, and 35 potential foreign producers and exporters of structural tubing. The Tribunal received 5 replies from Canadian producers, 11 replies from importers, and 1 reply from the Turkish Steel Exporters' Association. In addition, 3 companies indicated that they did not produce structural tubing during the period of review, while 10 companies replied that they either did not import structural tubing or would not be providing a response to the questionnaire. Of these replies, 17 were used in the Tribunal's analysis.

There were five participants in the expiry review, with eight witnesses appearing before the Tribunal during a two-day public hearing. The official record contained 4,000 pages.

The Tribunal was of the view that, if it allowed the expiry of the order with regard to Korea and Turkey, the likely price depression and price undercutting would have a negative impact on the domestic industry's sales volume and market share, and a significant negative impact on its gross margins, which, in turn, would have a negative effect on the domestic industry's return on investments, cash flow and employment levels.

Consequently, on December 20, 2013, the Tribunal continued its order in respect of structural tubing from Korea and Turkey. However, the Tribunal rescinded its order in respect of structural tubing from South Africa, as it was of the view that it was unlikely that structural tubing produced in South Africa would be present in the Canadian market in the following 12 to 18 months.

RR-2013-002—Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate

This expiry review concerned the dumping of hot-rolled carbon steel plate and high-strength low-alloy steel plate originating in or exported from Bulgaria, the Czech Republic and Romania (the subject plate).

The Tribunal sent requests to complete questionnaires to 3 known Canadian producers, 26 potential importers and 13 potential foreign producers and exporters of hot-rolled carbon steel plate. The Tribunal received 3 replies from Canadian producers, 12 replies from importers, and 1 partial response from an exporter. All of these replies were used in the Tribunal's analysis.

There were three participants in the expiry review, with four witnesses appearing before the Tribunal during a one-day public hearing. The official record contained 7,000 pages.

The Tribunal was of the view that rescinding the order would likely result in the significant increase of imports of the subject plate at prices that could be expected to undercut, depress and suppress those of the like goods, thereby causing material injury to the domestic industry. Consequently, on January 7, 2014, the Tribunal continued its order in respect of the subject plate.

RR-2013-003—Aluminum Extrusions

This expiry review concerned the dumping and subsidizing of aluminum extrusions originating in or exported from China (the subject aluminum extrusions).

The Tribunal sent requests to complete questionnaires to 13 known Canadian producers, 313 potential importers (the Tribunal sent 305 requests to complete full importer questionnaires and 71 requests to complete short-form importer questionnaires, some of which were sent to the same company if a full questionnaire had not been returned) and 375 potential foreign producers and exporters of aluminum extrusions. The Tribunal received full or partial replies to questionnaires from 12 Canadian producers, 41 importers, 13 of which indicated that they did not import aluminum extrusions, and 1 foreign producer. Due to inconsistencies in questionnaire replies or statements indicating that the reply included information on products other than aluminum extrusions, 1 full importer questionnaire and portions of 3 additional importer questionnaires were not used in the Tribunal's analysis.

There were 22 participants in the expiry review, with 19 witnesses appearing before the Tribunal during a four-day public hearing. The official record contained 19,100 pages.

On March 17, 2014, the Tribunal issued an order continuing its findings on the subject aluminum extrusions. Reasons supporting this decision were issued on March 28, 2014.

Expiry Reviews in Progress at the End of the Fiscal Year

There were no expiry reviews in progress at the end of the fiscal year.

Judicial or Panel Reviews of SIMA Decisions

There were no Tribunal decisions remanded by the Federal Court of Appeal during the fiscal year.

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
NQ-2013-003	Silicon metal	China	A—427—13 In progress
RR-2012-004	Thermoelectric containers	China	A—42—14 In progress

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 December 31, 2013, there were 25 *SIMA* findings and orders in force, affecting approximately \$7.7 billion in shipments, \$0.5 billion in investments, 22,000 direct jobs and \$1.2 billion in imports, representing about 2.18 percent of Canadian shipments, 1.70 percent of Canadian investments, 1.07 percent of Canadian employment, and 0.32 percent of Canadian imports.

Summary of Findings and Orders in Force as of March 31, 2014

Inquiry No. or Expiry Review No.	Date of Decision	Product	Type of Case/Country	Related Decision No. and Date
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	

Summary of Findings and Orders in Force as of March 31, 2014 (cont'd)

Inquiry No. or Expiry Review No.	Date of Decision	Product	Type of Case/Country	Related Decision No. and Date
NQ-2012-003	December 11, 2012	Carbon steel welded pipe	Dumping/Chinese Taipei, India, Oman, Korea, Thailand and the United Arab Emirates Subsidizing/India	
NQ-2013-002	November 12, 2013	Unitized wall modules	Dumping and subsidizing/China	
NQ-2013-003	November 19, 2013	Silicon metal	Dumping and subsidizing/China	
NQ-2013-004	December 18, 2013	Circular copper tube	Dumping/Brazil, Greece, China, Korea, and Mexico Subsidizing/China	
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)
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)
RR-2012-003	August 19, 2013	Carbon steel welded pipe	Dumping and subsidizing/China	NQ-2008-001 (August 20, 2008)
RR-2012-004	December 9, 2013	Thermoelectric containers	Dumping and subsidizing/China	NQ-2008-002 (December 11, 2008)
RR-2013-001	December 20, 2013	Structural tubing	Dumping/Korea and Turkey	RR-2008-001 (December 22, 2008) NQ-2003-001 (December 23, 2003)
RR-2013-002	January 7, 2014	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Dumping/Bulgaria, Czech Republic and Romania	RR-2008-002 (January 8, 2009) NQ-2003-002 (January 9, 2004)
RR-2013-003	March 17, 2014	Aluminum extrusions	Dumping and subsidizing/China	NQ-2008-003 (March 17, 2009)
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*, the *CCOFTA* or the *CPAFTA*, or any other applicable trade agreement, may file a complaint with the Tribunal. The relevant provisions of the *Canadian International Trade Tribunal 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, circumstances and outcome of the case.

Improving Access for Complainants to the Tribunal

This year, as contemplated by section 30.19 of the *CITT Act*, the Chairperson wrote to the Deputy Minister of the Department of Public Works and Government Services (PWGSC), with an observation regarding procurement processes conducted by PWGSC.

The Chairperson observed that complainants that were seeking redress under section 30.1 and following of the *CITT Act* were often unaware of their recourse options until it was too late. In fact, over a recent five-year period that was examined, 23 percent of complaints to the Tribunal did not proceed because complainants failed to file on time. It was noted that this was of concern because complainants may have been denied a hearing into the issues that they raised, as well as access to potential remedies, only because they were not aware of the need to make an objection to PWGSC or to file a complaint with the Tribunal within the 10-day time frame set out in the *Canadian International Trade Tribunal Procurement Inquiry Regulations*.

The Deputy Minister of PWGSC and the Chairperson exchanged correspondence on this subject. PWGSC has since taken steps to increase awareness of these time constraints and has suggested that the time limit for filing a complaint with the Tribunal be increased to 30 days.

This issue is not limited to procurements conducted by PWGSC. In fact, determinations issued by the Tribunal this year concerning procurements conducted by Parks Canada and the RCMP also recommended that solicitation documents, and letters advising bidders that they were not successful (regret letters), contain a paragraph advising them of the time constraints to file a complaint with the Tribunal. The Tribunal provided the text of the notification that it would like to see provided to bidders in such circumstances. Parks Canada did not specifically respond to this request when it informed the Tribunal of the extent to which it was implementing the Tribunal's other recommendations concerning the solicitation in issue in that matter. The RCMP explicitly stated that it will include information in its regret letters about recourse to the Tribunal, if applicable.

Instead of the Tribunal having to make similar recommendations in such a case-by-case manner, and with varying results, the Tribunal would like to see its suggested notification clause included in both solicitation documents, and regret letters, and to see this practice adopted uniformly and voluntarily by all branches of the Government of Canada, in a pro-active manner.

Procurement Complaints

Summary of Activities

	2012-2013	2013-2014
Number of Procurement Cases Received		
Carried over from previous fiscal year	3	2
Received in fiscal year	53	49
Total	56	51
Disposition—Complaints Accepted for Inquiry		
Dismissed	1	2
Not valid	8	6
Valid or valid in part	1	4
Ceased	2	2
Withdrawn/abandoned	3	-
Subtotal	15	14
Disposition—Complaints Not Accepted for Inquiry		
Lack of jurisdiction/not a potential supplier	2	3
Late filing	10	6
Not a designated contract/no reasonable indication of a breach/premature	25	17
Withdrawn/abandoned	2	2
Subtotal	39	28
Outstanding at End of Fiscal Year	2	9
Decisions to initiate	15	20
Remanded cases	-	-

In 2013-2014, PWGSC issued approximately 22,669 contracts valued between \$25,000 and \$2 billion, for a total value of \$151 billion.

Summary of Selected Determinations

During the fiscal year, the Tribunal issued 46 decisions on whether to accept complaints for inquiry and 14 final decisions on complaints that were accepted for inquiry, for a total of 60 decisions. Nine cases were still in progress at the end of the fiscal year, one of which was still under consideration for being accepted for inquiry.

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.

PR-2013-005 and PR-2013-008—Raymond Chabot Grant Thornton Consulting Inc. and PricewaterhouseCoopers LLP

Raymond Chabot Grant Thornton Consulting Inc. (RCGT) and PricewaterhouseCoopers LLP (PwC) each filed complaints concerning a procurement by PWGSC for the provision of forensic audit services. RCGT alleged that PWGSC had improperly concluded that one of the projects listed in the résumé of a proposed resource was not a forensic audit, while PwC argued that PWGSC had improperly found that the sample forensic audit report provided by PwC was not forensic audit report. As the complaints both related to the same designated contract, and as the matters at issue both centered on the proper definition of a

forensic audit, the Tribunal determined that the complaints should be joined and heard together. Deloitte LLP, Ernst & Young LLP, and KPMG LLP all requested, and were granted, intervener status in the complaint.

In order to determine the proper meaning of the term “forensic audit”, the Tribunal looked to the Statement of Work (SOW) which formed part of the solicitation. In doing so, the Tribunal reiterated that the meaning of a term, in the context of its usage in a Request for Proposal (RFP), is logically connected to the tasks/deliverables set out in the SOW. As such, the Tribunal found that, for the purposes of the solicitation, a forensic audit is one which is predicated on the existence of reasonable grounds to suspect that fraud or other illegal acts have occurred. Similarly, the Tribunal held that the sample forensic audit report contemplated in the solicitation documents referred to a final report which would allow either the drawing of conclusions confirming or refuting the allegations which triggered the audit.

In reaching its conclusion, the Tribunal noted that it is well established that it would only interfere with an evaluation by PWGSC that was unreasonable. Moreover, an evaluation would be considered reasonable if it was supported by a tenable explanation, regardless of whether or not the Tribunal itself found that explanation compelling. As a result, the Tribunal held that PWGSC’s evaluation of both RCGT’s and PwC’s bids was reasonable, and that the complaints were therefore not valid.

PR-2013-014—Knowledge Circle Learning Services Inc.

This complaint was filed by Knowledge Circle Learning Services Inc. (Knowledge Circle) concerning a Request for Standing Offer by the Department of Health (Health Canada) for the provision of French language training services. Knowledge Circle alleged that Health Canada improperly extended 6 of 10 Standing Offer Agreements (SOAs) beyond the maximum duration specified in the Request for Standing Offer and in the original 10 SOAs.

The Tribunal noted that, under the relevant trade agreements, an invitation to participate must be published whenever a government institution seeks to acquire or continue services that are not provided for under an ongoing contract, except for in certain limited circumstances. Therefore, the Tribunal held that Health Canada should have created new procurements in order to continue to receive French language training services, since it did not have the authority, unilaterally or through negotiations, to extend the SOAs beyond their expiry. Accordingly, the complaint was found to be valid.

PR-2013-029—R.H. MacFarlands (1996) Ltd.

R.H. MacFarlands (1996) Ltd. (MacFarlands) filed a complaint concerning a procurement by PWGSC for five tracked line construction vehicles and ancillary items, including the provision of maintenance personnel training and operator training. MacFarlands submitted that PWGSC wrongly disqualified its proposal because it did not include a mandatory signature from a senior engineer as proof of compliance. MacFarlands argued that PWGSC’s finding was unfair, since its proposal complied with all other mandatory technical evaluation criteria in the RFP, and the missing signature was simply a trivial oversight.

While the Tribunal recognized that MacFarland’s bid likely would have been found compliant were it not for the missing signature, it nonetheless held that it could not intervene in cases where mandatory criteria was not met. The Tribunal held that requiring that all potential suppliers meet every mandatory requirement of each solicitation is a cornerstone of the integrity of the tendering system. In this case, MacFarlands recognized that a mandatory signature was not included in its bid. Accordingly, the complaint did not disclose a reasonable indication that PWGSC breached the applicable trade agreements in carrying out its evaluation, and the Tribunal determined that no inquiry was necessary.

Disposition of Procurement Complaints

File No.	Complainant	Status/Decision
PR-2012-035	Mistral Security Inc.	Order issued on May 3, 2013 Complaint dismissed
PR-2012-047	M.L. Wilson Management	Decision issued on June 6, 2013 Complaint valid in part
PR-2013-001	Valcom Consulting Group Inc.	Decision made on April 8, 2013 No reasonable indication of a breach
PR-2013-002	Flag Connection Inc.	Decision made on May 7, 2013 Lack of jurisdiction
PR-2013-003	Flag Connection Inc.	Decision made on May 7, 2013 Late filing
PR-2013-004	All Canadian Courier Corp.	Decision made on June 11, 2013 No reasonable indication of a breach
PR-2013-005	Raymond Chabot Grant Thornton Consulting Inc.	Decision issued on October 25, 2013 Complaint not valid
PR-2013-006	Tyco Integrated Security Canada, Inc.	Decision issued on September 13, 2013 Complaint not valid
PR-2013-007	Carmichael Engineering Ltd.	Decision made on July 5, 2013 Complaint premature
PR-2013-008	PricewaterhouseCoopers LLP	Decision issued on October 25, 2013 Complaint not valid
PR-2013-009	ADR Education	Decision made on July 16, 2013 Late filing
PR-2013-010	Flag Connection Inc.	Decision made on July 30, 2013 No reasonable indication of a breach
PR-2013-011	ADR Education	Decision issued on October 18, 2013 Complaint not valid
PR-2013-012	Access Corporate Technologies Inc.	Decision issued on November 14, 2013 Complaint not valid
PR-2013-013	Saskatchewan Institute of Applied Science and Technology	Decision issued on January 9, 2014 Complaint valid in part
PR-2013-014	Knowledge Circle Learning Services Inc.	Decision issued on January 13, 2014 Complaint valid
PR-2013-015	PrintersPlus, a division of 1135379 Ontario Ltd.	Decision made on September 18, 2013 Late filing
PR-2013-016	Paul Pollack Personnel Ltd. o/a The Pollack Group Canada	Decision made on September 23, 2013 No reasonable indication of a breach
PR-2013-017	Caltech Tech Services	Complaint abandoned while filing
PR-2013-018	Tiree Facility Solutions Inc.	Order issued on November 19, 2013 Complaint dismissed
PR-2013-019	Tideland Signal Canada Ltd.	Decision made on October 29, 2013 No reasonable indication of a breach
PR-2013-020	Tiree Facility Solutions Inc.	Decision issued on January 27, 2014 Complaint not valid
PR-2013-021	Flag Connection Inc.	Decision made on November 8, 2013 Complaint premature
PR-2013-022	Antian Professional Services	Decision made on November 20, 2013 Late filing
PR-2013-023	M. Ball	Decision made on November 29, 2013 No reasonable indication of a breach
PR-2013-024	National Motor Coach Systems Ltd.	Decision made on November 26, 2013 Late filing
PR-2013-025	Hendrix Hotel & Restaurant Equipment & Supplies Ltd.	Decision made on December 10, 2013 Late filing

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2013-026	Flag Connection Inc.	Order issued on January 8, 2014 Inquiry ceased
PR-2013-027	Unisource Technology Inc.	Decision made on December 13, 2013 No reasonable indication of a breach
PR-2013-028	R.P.M. Tech Inc.	Order issued on February 24, 2014 Inquiry ceased
PR-2013-029	R.H. MacFarlands (1996) Ltd.	Decision made on December 20, 2013 No reasonable indication of a breach
PR-2013-030	Valcom Consulting Group Inc.	Decision made on January 9, 2014 Complaint premature
PR-2013-031	Legacy Products Corporation	Accepted for inquiry—In progress
PR-2013-032	Star Group International Trading Corporation	Accepted for inquiry—In progress
PR-2013-033	Armored Specialty Cars (ASC) GmbH	Decision made on January 23, 2014 No reasonable indication of a breach
PR-2013-034	Hoskin Scientific	Decision made on January 23, 2014 No reasonable indication of a breach
PR-2013-035	Tritech Group Ltd.	Decision issued on March 31, 2014 Complaint valid
PR-2013-036	Tritech Group Ltd.	Decision made on January 31, 2014 Lack of jurisdiction
PR-2013-037	Vireo Network Inc.	Accepted for inquiry—In progress
PR-2013-038	Spacefile International Corp.	Decision made on February 10, 2014 No reasonable indication of a breach
PR-2013-039	High Criteria Inc.	Accepted for inquiry—In progress
PR-2013-040	GESFORM International	Decision made on February 17, 2014 Complaint premature
PR-2013-041	Alcohol Countermeasure Systems Corp.	Accepted for inquiry—In progress
PR-2013-042	Super Channel International Corp.	Decision made on February 21, 2014 No reasonable indication of a breach
PR-2013-043	eVision	Complaint abandoned while filing
PR-2013-044	Valcom Consulting Group Inc.	Accepted for inquiry—In progress
PR-2013-045	Scotia Crane Rentals Limited	Decision made on March 21, 2014 Lack of jurisdiction
PR-2013-046	StenoTran Services Inc. and Atchison & Denman Court Reporting Services	Accepted for inquiry—In progress
PR-2013-047	StenoTran Services Inc.	Accepted for inquiry—In progress
PR-2013-048	Tyco Electronics Canada ULC	Decision made on March 21, 2014 No reasonable indication of a breach
PR-2013-049	Greenline Systems Canada ULC	Under consideration

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-2012-015	Storeimage	Storeimage	A—66—13 Application discontinued (February 14, 2014)
PR-2013-013	Saskatchewan Institute of Applied Science and Technology	Saskatchewan Institute of Applied Science and Technology	A—91—14 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 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 two orders under the *Customs Act*, denying the applications for extension of time. Four applications were withdrawn, and there were no 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 one order under the *Excise Tax Act* granting an extension 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 61 appeals.

The Tribunal heard 45 appeals, 34 under the *Customs Act*, 1 under the *Excise Tax Act* and 10 under *SIMA*. It issued decisions on 42 appeals, which consisted of 33 appeals under the *Customs Act*, 1 under the *Excise Tax Act* and 8 under *SIMA*. All these decisions were issued within 120 days of the hearing, up from 90 percent the year before, despite an increase in the number of decisions.

Sixty-nine appeal cases were outstanding at the end of the fiscal year.

Appeals Before the Tribunal in Fiscal Year 2013-2014

Appeal No.	Appellant	Date of Decision	Status/Decision
<i>Customs Act</i>			
AP-2009-064	Pexcor Manufacturing Company Ltd.	January 16, 2014	Withdrawn
AP-2009-065	Mathews Equipment Limited		In abeyance
AP-2010-062	Irwin Naturals	March 11, 2014	Withdrawn
AP-2011-014	De Ronde Tire Supply, Inc.		In abeyance
AP-2011-033	Costco Wholesale Canada Ltd.		In progress
AP-2011-059	Outdoor Gear Canada		In abeyance
AP-2011-060	Cycles Lambert Inc.	July 10, 2013	Dismissed
AP-2011-065	Proctor-Silex Canada	April 8, 2013	Dismissed
AP-2011-074	Coming Cable Systems LLC		In progress
AP-2011-076	Coming Cable Systems LLC		In progress
AP-2012-009	Volpak Inc.		In progress
AP-2012-011	High Output Sports Canada Inc.	July 30, 2013	Withdrawn
AP-2012-014	Spectra Premium Industries Inc.	May 31, 2013	Withdrawn
AP-2012-017	Oceaneering Canada Limited	February 19, 2014	Allowed
AP-2012-018	Helly Hansen Canada Limited		In abeyance
AP-2012-021	Fiberlinks Textiles Inc.	April 18, 2013	Withdrawn
AP-2012-022	Andritz Hydro Canada Inc. and VA Tech Hydro Canada Inc.	June 21, 2013	Dismissed
AP-2012-023	J. Hains	October 25, 2013	Dismissed
AP-2012-026	Euro-Line Appliances	August 12, 2013	Allowed
AP-2012-031	Curry's Art Stores	April 29, 2013	Dismissed
AP-2012-034	Federal-Mogul Canada Limited		In abeyance
AP-2012-036	BalanceCo	May 3, 2013	Dismissed
AP-2012-037	Northern Amerex Marketing Inc.		In abeyance
AP-2012-041	Costco Wholesale Canada Ltd.	July 29, 2013	Dismissed
AP-2012-042	Costco Wholesale Canada Ltd.	July 29, 2013	Dismissed
AP-2012-043	Global Hydraulic Solutions Inc.	June 14, 2013	Dismissed
AP-2012-045	D. Andrews	April 11, 2013	Dismissed
AP-2012-049	CE Franklin Ltd.	September 16, 2013	Withdrawn
AP-2012-051	Brisk Industry Co., Ltd.	June 25, 2013	Withdrawn
AP-2012-052	Cross Country Parts Distributors Ltd.		In progress
AP-2012-053	Gregg Distributors Co. Ltd.	September 24, 2013	Withdrawn
AP-2012-054	J. E. Mondou Ltée	May 21, 2013	Withdrawn
AP-2012-055	L. Lavoie	September 6, 2013	Dismissed
AP-2012-056	Gestion Soprema Canada Inc./Holding Soprema Canada Inc.	March 14, 2014	Withdrawn
AP-2012-057	Costco Wholesale Canada Ltd.	September 17, 2013	Dismissed
AP-2012-058	Kinedyne Canada Ltd.	December 17, 2013	Allowed in part
AP-2012-060	Cycles Lambert Inc.	November 28, 2013	Dismissed
AP-2012-061	Groupe Procycle Inc.	December 2, 2013	Withdrawn
AP-2012-062	Cycles Marinoni Inc.	December 2, 2013	Withdrawn
AP-2012-063	Cycles Argon-18 Inc.	December 2, 2013	Withdrawn
AP-2012-064	Norco Products Ltd.	December 2, 2013	Withdrawn
AP-2012-065	R. Atkinson	November 20, 2013	Dismissed
AP-2012-066	Wolseley Canada	December 11, 2013	Allowed
AP-2012-067	Hudson's Bay Company	March 21, 2014	Allowed

Appeals Before the Tribunal in Fiscal Year 2013-2014 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2012-068	Costco Wholesale Canada Ltd.	November 19, 2013	Withdrawn
AP-2012-069	M. Olsen	November 22, 2013	Allowed
AP-2012-070	Cargill Inc.		In progress
AP-2012-071	Precision Flange Company Ltd.	September 24, 2013	Withdrawn
AP-2012-072	R. Christie	January 15, 2014	Dismissed
AP-2012-073	Skechers USA Canada, Inc.	December 13, 2013	Dismissed
AP-2013-001	Aquatherm CA, Inc.	September 24, 2013	Withdrawn
AP-2013-002	Just-In Case Fire Ltd.	September 24, 2013	Withdrawn
AP-2013-003	Costco Wholesale Canada Ltd.	February 13, 2014	Allowed
AP-2013-004	Ubisoft Canada Inc.	January 28, 2014	Dismissed
AP-2013-005	Philips Electronics Ltd.	September 11, 2013	Withdrawn
AP-2013-006	SMS Equipment Inc.	March 28, 2014	Allowed
AP-2013-007	Philips Electronics Ltd.		In abeyance
AP-2013-010	International Flavors and Fragrances Inc.	October 11, 2013	Withdrawn
AP-2013-011	Bacardi Canada Inc.	June 12, 2013	Withdrawn
AP-2013-012	Staples Business Depot	September 13, 2013	Withdrawn
AP-2013-013	Philips Electronics Ltd.	March 3, 2014	Dismissed
AP-2013-014	Hudson's Bay Company	June 12, 2013	Withdrawn
AP-2013-015	Xerox Canada Ltd.	February 25, 2014	Allowed
AP-2013-016	G. Wilkie	January 20, 2014	Dismissed
AP-2013-017	Double J Fashion Group Inc.	March 14, 2014	Dismissed
AP-2013-018	KAO Canada Inc.	January 16, 2014	Dismissed
AP-2013-019	Philips Electronics Ltd.		In progress
AP-2013-020	Les Distributions Saeco Canada Ltée		In progress
AP-2013-021	Stylus Sofas Inc.		In progress
AP-2013-022	Stylus Atlantic		In progress
AP-2013-023	Stylus Ltd.		In progress
AP-2013-024	Terravest (SF SUBCO) Limited Partnership		In progress
AP-2013-026	Eastern Division Henry Schein Ash Arcona Inc.	February 19, 2014	Allowed
AP-2013-027	Maurice Pincoffs Canada Inc.	March 13, 2014	Allowed
AP-2013-028	Bluestein Enterprises Inc.	March 31, 2014	Dismissed
AP-2013-029	Eastern Division Henry Schein Ash Arcona Inc.		In progress
AP-2013-030	Aventure Airsoft Lanaudiere	March 3, 2014	Withdrawn
AP-2013-031	SPX Cooling Technologies Inc.	July 23, 2013	Withdrawn
AP-2013-032	Home Depot of Canada Inc.		In progress
AP-2013-033	Wolseley Canada Inc.	March 3, 2014	Withdrawn
AP-2013-034	Mattel Canada Inc.		In progress
AP-2013-035	Mountain Equipment Co-Operative	December 2, 2013	Withdrawn
AP-2013-036	Hunter Douglas Canada Limited Partnership	January 17, 2014	Withdrawn
AP-2013-037	R.C. Purdy Chocolates Ltd.	October 2, 2013	Withdrawn
AP-2013-038	Sunpan Trading & Importing Inc.		In progress
AP-2013-039	Dorel Distribution Canada	October 11, 2013	Withdrawn

Appeals Before the Tribunal in Fiscal Year 2013-2014 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2013-040	Mattel Canada Inc.		In progress
AP-2013-041	IKEA Supply AG	January 21, 2014	Withdrawn
AP-2013-042	Canadian Tire Corporation Ltd.		In progress
AP-2013-043	Jupiter Industries, Inc.	December 17, 2013	Withdrawn
AP-2013-044	Worldpac Canada	February 10, 2014	Withdrawn
AP-2013-045	Shandex Sales Group Ltd.		In progress
AP-2013-046	Tenth Siding Trading Co. dba Rock Gear		In progress
AP-2013-047	T. Lysyshyn		In progress
AP-2013-048	Mountain Equipment Co-Operative		In progress
AP-2013-049	Dynatrac Sleep Products Ltd.		In progress
AP-2013-050	BMW Canada Inc.		In progress
AP-2013-051	DALS Lighting Inc.		In progress
AP-2013-053	IKEA Supply AG		In progress
AP-2013-054	Powertek Sport Inc.	March 6, 2014	Withdrawn
AP-2013-055	Kraft Canada Inc.		In progress
AP-2013-056	Hanesbrands Inc.		In progress
AP-2013-057	BSH Home Appliance Ltd.		In progress
AP-2013-058	Quagga Designs		In progress
AP-2013-059	A. Downey		In progress
AP-2013-060	Unitool Inc.		In progress
AP-2013-061	G&G Golf Company Inc.		In progress
<i>Excise Tax Act</i>			
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.	January 17, 2014	Allowed in part
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
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

Appeals Before the Tribunal in Fiscal Year 2013-2014 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2009-043	Benson Tank Lines Ltd.		In abeyance
AP-2012-002	Imperial Oil Limited, McColl-Frontenac Petroleum Inc.		In abeyance
AP-2012-003	Imperial Oil Limited, McColl-Frontenac Petroleum Inc.		In abeyance
AP-2013-052	Montreal Gateway Terminals Partnership		In progress
<i>Special Import Measures Act</i>			
AP-2012-010	Powers Industries Limited	April 22, 2013	Dismissed
AP-2012-025	Regal Ideas Inc.	May 27, 2013	Allowed
AP-2012-035	Canadian Tire Corporation		In progress
AP-2012-038	Colonial Élégance Inc.	September 11, 2013	Dismissed
AP-2012-039	Universal Consumer Products, Inc.	September 11, 2013	Dismissed
AP-2012-044	McLean Contracting	May 16, 2013	Withdrawn
AP-2012-047	Salzgitter Mannesmann International (Canada) Inc.	September 25, 2013	Allowed
AP-2012-048	Varsteel Ltd.	September 25, 2013	Allowed
AP-2012-050	LIV Outdoor (International) Inc.	September 11, 2013	Dismissed
AP-2012-059	Maine Ornamental, LLC	September 11, 2013	Dismissed
AP-2013-008	Ideal Roofing Company Limited		In progress
AP-2013-009	Havelock Metal Products Inc.		In progress
AP-2013-025	Aluminart Products Limited	July 11, 2013	Withdrawn

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 two appeals 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.

AP-2012-073—Skechers USA Canada, Inc. v. President of the Canada Border Services Agency

This appeal was filed by Skechers USA Canada, Inc. (Skechers Canada) pursuant to subsection 67(1) of the *Customs Act* from decisions by the CBSA made pursuant to subsection 60(4), concerning the value for duty of footwear of various styles imported by Skechers Canada. The main issue was whether, applying the transaction value of the goods method of section 48, certain periodic payments made by Skechers Canada to the vendor, Skechers USA Inc., for research, development and design expenses must be included in the price paid or payable for the imported goods and, accordingly, their value for duty for the purposes of the *Act*. Skechers Canada argued that the payments were not part of the price paid or payable for the goods pursuant to subsections 45(1) and 48(4) because they are not in respect of the goods, but rather, in respect of intangibles, namely, developing the Skechers brand. On the evidence, the Tribunal determined that the imported goods could not have been produced without the research and design process in respect of which the payments were made and that the quantum of the payments was affected by the imported goods. Accordingly, the Tribunal found that the payments were made in respect of the imported goods and must be included in their price and their value for duty. The appeal was therefore dismissed.

AP-2012-036—BalanceCo v. President of the Canada Border Services Agency

This appeal was filed pursuant to section 67(1) of the *Customs Act* from a decision by the CBSA made pursuant to subsection 60(4). The decision affirmed an advance ruling under paragraph 43.1(1)(c) of the *Customs Act* in respect of the tariff classification of shredded Mozzarella cheese and sliced pepperoni, packaged together, imported by a third party, as a result of which classification the shredded Mozzarella cheese was not subject to Canada's tariff rate quotas on dairy imports. BalanceCo, a not-for-profit corporation whose members are Canada's 10 provincial milk marketing boards, acknowledged having requested the advance ruling for the purpose of ensuring the effective enforcement of the tariff rate quotas.

As paragraph 43.1(1)(c) of the *Customs Act* and the *Tariff Classification Advance Rulings Regulations* limit eligibility to apply for an advance ruling to members of prescribed classes of persons, including "importers of goods in Canada," a preliminary issue arose as to whether BalanceCo was an "importer of goods in Canada" and, thus, an eligible applicant.

The Tribunal found that the legislative purpose of the advance ruling program was to assist persons interested in importing, by providing certainty and predictability as to how a given good would be treated on importation. However, the evidence indicated that BalanceCo had no interest in importing the goods that were the subject of its advance ruling request, with its application having been motivated by considerations extraneous to the purpose of the legislation. As such, BalanceCo was not an "importer of goods in Canada". BalanceCo being a non-eligible applicant, the ruling issued to it under subsection 43.1(1) of the *Customs Act* and the decision made by the CBSA under subsection 60(4) were invalid. That being the case, the appeal was dismissed for want of jurisdiction.

AP-2012-039, AP-2012-050 and AP-2012-059—Universal Consumer Products, Inc., Liv Outdoor (International) Inc. and Maine Ornamental, LLC v. President of the Canada Border Services Agency

These appeals were filed under section 61 of the *SIMA* from 50 decisions of the CBSA made under section 59, affirming previous determinations made under section 57 that various imported aluminum products were of the same description as the goods subject to the Tribunal's finding in Inquiry No. NQ-2008-003, as amended in Inquiry No. NQ-2008-003R. The appellants argued that the imported products were kits exempted from the Tribunal's finding or, alternatively, that they have been further worked to the point that they no longer shared the characteristics of the goods subject to the finding. The Tribunal found that the goods in issue were of the same description as the goods subject to the finding. Therefore, the appeals were dismissed.

AP-2009-024—Transnat Express Inc. v. Minister of National Revenue

This appeal was filed pursuant to section 81.19 of the *Excise Tax Act* from a decision made by the Minister of National Revenue (the Minister) with respect to a notice of objection pursuant to section 81.17. The dispute concerned the application by Transnat Express Inc. (Transnat) pursuant to paragraph 68.01(1)(b) for a payment equal to the amount of tax purportedly paid on diesel fuel used to generate electricity for purposes *other than* primarily in the operation of a vehicle. The issues before the Tribunal were the following: the period covered by Transnat's application; whether diesel fuel used for refrigeration purposes qualifies for a payment under the *Excise Tax Act*; whether Transnat provided sufficient supporting documentation for its application; and whether certain receipts showing purchases of diesel fuel were in fact in respect of diesel fuel purchased and used by Transnat for qualified purposes.

The Tribunal found the following: the period covered by Transnat's application is that period specified in the application; Transnat had the burden of proof and it failed to provide a basis upon which diesel fuel used for reefers qualifies for a payment under the *Excise Tax Act*; the only claims eligible for payment are those for which Transnat has met the record-keeping requirements of the *Excise Tax Act*, while the claims for which the documentary evidence had been destroyed are not eligible for payment; oral testimony provided by Transnat's witnesses that certain invoices included in Transnat's application relate to diesel fuel purchased and used by Transnat for qualified purposes warrants that the Minister make further attempts to verify these claims. Accordingly, the appeal was allowed in part.

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-2011-018	HBC Imports c/o Zellers Inc.	HBC Imports c/o Zellers Inc.	A—306—12 Appeal dismissed (June 24, 2013)
AP-2011-030	Grodan Inc.	President of the Canada Border Services Agency	A—381—12 Appeal dismissed (May 1, 2013)
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 Appeal discontinued (December 18, 2013)
AP-2012-004	Holland Hitch of Canada Limited	President of the Canada Border Services Agency	A—136—13 Appeal dismissed (January 8, 2014)
AP-2011-065	Proctor-Silex Canada	Proctor-Silex Canada	A—223—13 In progress
AP-2012-066	Wolseley Canada	President of the Canada Border Services Agency	A—244—13 Appeal discontinued (February 24, 2014)
AP-2012-036	BalanceCo	BalanceCo	A—262—13 In progress
AP-2011-060	Cycles Lambert Inc.	Cycles Lambert Inc.	A—286—13 In progress
AP-2012-022	Andritz Hydro Canada Inc. and VA Tech Hydro Canada Inc.	Andritz Hydro Canada Inc. and VA Tech Hydro Canada Inc.	A—291—13 In progress
AP-2012-026	Euro-Line Appliances	President of the Canada Border Services Agency	A—369—13 In progress
AP-2012-070	Cargill Inc.	President of the Canada Border Services Agency	A—408—13 In progress
AP-2012-073	Skechers USA Canada, Inc.	Skechers USA Canada, Inc.	A—121—14 In progress
Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.			



CHAPTER VI

STANDING TEXTILE REFERENCE

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 2013-2014, 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, Trade and Development, 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 an investigation report, the Tribunal’s investigation 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 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 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 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

	2012-2013	2013-2014
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