

Transportation Appeal Tribunal of Canada

2004–2005 Estimates

A Report on Plans and Priorities

Approved

The Honourable Jean-C. Lapierre, P.C., M.P.

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Section I: Chairperson's Message

I am pleased to present the Report on Plans and Priorities of the Transportation Appeal Tribunal of Canada, formerly the Civil Aviation Tribunal. This report reflects the experience gained by the Tribunal over a period of more than 18 years of operation.

The Transportation Appeal Tribunal of Canada is a quasi-judicial body established in June 2003 (SC 2001, c. 29) to provide an independent process of review of administrative and enforcement actions — including the suspension and cancellation of licences, certificates and other documents of entitlement, the issuance of railway orders, and the imposition of administrative monetary penalties — taken under various federal transportation Acts.

The Tribunal conducts itself in an open, impartial manner consistent with procedural fairness and the rules of natural justice. It adjudicates matters that will have a serious impact on the livelihood and operations of the aviation, rail and marine communities in 2005-2006. Given its structure and process for conducting hearings, the Tribunal is readily accessible to that community.

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

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

In the light of the continuing challenge to manage its increasing workload, the direction of the Tribunal for the years ahead will be its continued focus on the fulfilment of its expanded mandate. Having recognized the commitment of members and staff to its mandate, I am confident that the Tribunal will successfully meet its challenges.

Faye Smith
Chairperson

MANAGEMENT REPRESENTATION STATEMENT

I submit, for tabling in Parliament, the 2004–2005 Report on Plans and Priorities (RPP) for the Transportation Appeal Tribunal of Canada.

This document has been prepared based on the reporting principles and disclosure requirements contained in the *Guide to the preparation of the 2004–2005 Report on Plans and Priorities*:

- It accurately portrays the organisation's plans and priorities.
- The planned spending information in this document is consistent with the directions provided in the Minister of Finance's Budget and by TBS.
- Is comprehensive and accurate.
- Is based on sound underlying departmental information and management systems.

The reporting structure on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

Name: _____

Title: _____

Date: _____

Section II: Raison d'être

The mission of the Transportation Appeal Tribunal of Canada is to review the Minister of Transport's enforcement and licensing decisions through a two-level hearing process.

Planning Overview (Strategic Plan)

Our organisation is funded through operating expenditures. On the assumption of an increased caseload of as much as 40%, the Tribunal will need additional funding to sustain its multi-modal mandate. The most significant upcoming challenge for the Tribunal will be its first year as a multi-modal transportation tribunal. The reorganization of the Tribunal will increase the overall workload and require expansion of capacity in new areas of expertise: more members will have to be appointed and trained. Existing employees will likely require additional training and more staff will have to be hired.

Section III: Plans and Priorities by Strategic Outcome

The Transportation Appeal Tribunal of Canada replaces the Civil Aviation Tribunal which was established under Part IV of the *Aeronautics Act* in 1986. On the recommendation of the Minister of Transport, pursuant to section 73 of the *Transportation Appeal Tribunal of Canada Act*, assented to on December 18, 2001, being chapter 29 of the Statutes of Canada, 2001 the Act officially, came into force on June 30, 2003. The Transportation Appeal Tribunal of Canada, a multi-modal tribunal is available to the air and rail sectors, and at a later time, the marine sector. The *Transportation Appeal Tribunal Act* amends the *Aeronautics Act*, the *Canadian Shipping Act*, the *Marine Transportation Security Act* and the *Railway Safety Act* to establish the jurisdiction and decision making authorities of the Tribunal under those Acts. The Tribunal's jurisdiction, extending to the rail sector, is expressly provided for under the *Aeronautics Act* and the *Railway Safety Act* (section 2 of the *Transportation Appeal Tribunal of Canada Act*). The mandate of the Tribunal expands to act as a multi-modal review body for administrative and enforcement actions taken under various federal transportation acts. Therefore, the Tribunal's caseload will enlarge considerably over the next few years, but the business line will not be amended. The office of the Tribunal is located in the National Capital Region.

The Tribunal's yearly seminars ensure a trained membership through updates and discussions of legislative changes. The interaction of members and role play scenarios assist the membership in achieving quality and consistency in making and in writing its decisions. A panel discussion takes place with representatives from the transportation communities.

The Tribunal will continue to provide determinations quickly, allowing Transport Canada and document holders to better understand the outcome of the matter and, where applicable, to make a more enlightened decision as to the exercise of their right to appeal. In 2002–2003 the average lapsed time between the conclusion of a review hearing and the issuance of a determination was 64 days for a review and 80 days for an appeal. The greater number of hearings and the increasing case complexity provide justification for the additional time needed by members.

Modern Comptrollership

The implementation of Modern Comptrollership (MC) will continue to be a key priority for the Transportation Appeal Tribunal of Canada. The tribunal will continue to work in partnership with three other small quasi-judicial agencies namely, the Canadian Artists and Producers Professional Relations Tribunal, Competition Tribunal and Copyright Board of Canada who have formed a cluster group to implement MC. Most of the activities listed in both the Cluster Group MC Action Plan and the Tribunal Individual Action Plan were completed in 2003-2004. The focus for 2004-2005 will be on sustaining MC and building on the work undertaken in 2003-2004 related to implementing the Internal Audit and Evaluation policies, the Integrated Risk Management Framework and Values and Ethics. In addition, the cluster group will look at the feasibility of developing a performance measurement framework and conduct an analysis of current performance indicators to determine their appropriateness.

Government On-Line

The Tribunal will seek to improve the delivery of its key services to the public for greater efficiencies and increased client satisfaction and to improve access and service performance by making major modifications to its Web site and by providing Internet links.

Social Union Framework Agreement (SUFA)

The Transportation Appeal Tribunal of Canada represents the only forum for ensuring that the document holders have access to an independent assessment governed by considerations of natural justice. There are approximately 68,919 licensed aviation personnel, 39,700 rail personnel in Canada and approximately 35,000 registered aircraft and 3,000 locomotives in service. Because of this volume, the number of infractions will rise. The level of enforcement action is entirely controlled by Transport Canada which in turn determines the workload of the Tribunal. The Tribunal is also affected by the department's rewrite of its aviation and rail regulations including the designation of a large number of offences under the designated provisions set out in the *Canadian Aviation Regulations*.

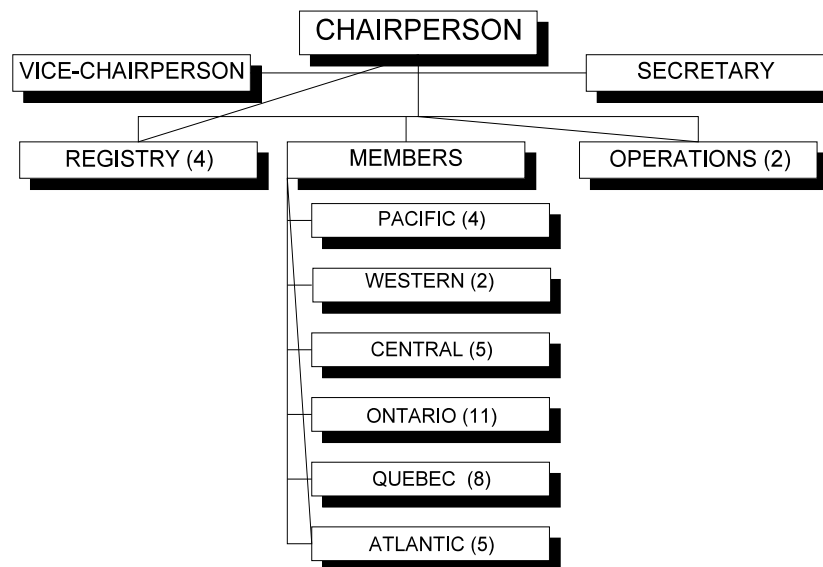
Section IV: Organization

4.1 Mandate, Role and Responsibility

The Tribunal has a commitment to openness and cooperation and is mandated to conduct informal, expeditious and fair hearings.

The objective of the Tribunal is to provide the transportation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body. The Minister's enforcement and licensing decisions may include the imposition of monetary penalties or the suspension, cancellation, or refusal to renew documents of entitlement for reasons of incapacity or other grounds. The person or corporation affected is referred to as the document holder.

At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.



Note: Central and Western Regions reflect Prairie and Northern Region

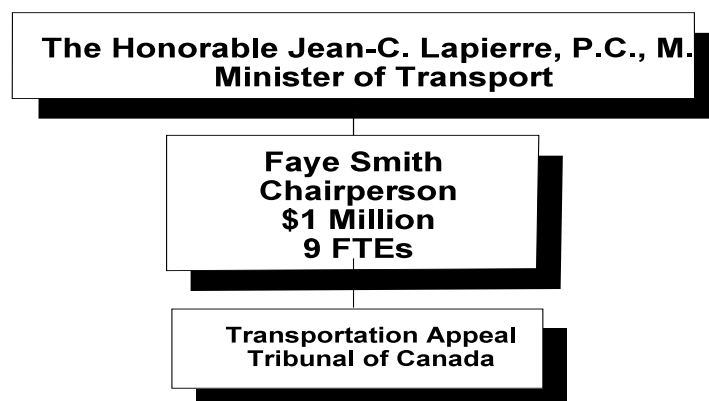
The lower half of the organization chart displays the distribution of part-time members by region. All members report to the Chairperson.

The Chairperson, Vice-Chairperson and immediate staff account for nine full-time equivalents. Twenty part-time members were in office at the end of 2002–2003. Members are drawn from across Canada and are appointed by Order in Council on the basis of their knowledge and expertise. At the end of 2003, 35 part-time members were appointed 31 in aeronautics and 4 in rail, including medicine.

4.2 Accountability

The Tribunal reports to Parliament through the Minister of Transport. The Chairperson is the Chief Executive Officer of the Tribunal and has supervision over and direction of the work and staff of the Tribunal including:

- the apportionment of work among its members
- the assignment of members to hear matters brought before the Tribunal
- the assignment of members to preside over panels
- the conduct of the work of the Tribunal
- the management of its internal affairs



4.3 Business Line Details

The objective of the Tribunal is to review enforcement and licensing decisions of the Minister of Transport through a two-level hearing process: review and appeal.

Business Line Description

The Tribunal's only business line is the provision of an independent review process for aviation, and rail by providing document holders with the opportunity to proceed with a hearing. The Tribunal represents the only forum ensuring that document holders have access to an independent assessment governed by considerations of natural justice. Its role does not overlap with, nor is it duplicated by, any other agency, board or commission. It is unique in the transportation sector in that its function is entirely adjudicative.

4.4 Agency Planned Spending

In 2003–2004, planned spending for the Tribunal was \$1,289,000. Treasury Board approved an additional \$235,000 in the current fiscal year related to the amended mandate workloads, the need for additional administrative personnel, training for the members and increased administrative costs. The supplementary estimates increased the total authorities to \$1,524,000.

In addition to the increase in the number of hearings, there has been an increase in the caseload and the case complexity. The accompanying costs for travel and professional assistance have escalated. The first row of the following table reflects the average cost of the review and appeal hearings for the period under review.

	Forecast* 2004–2005	Forecast* 2003–2004	Actual 2002–2003	Actual 2001–2002	Actual 2000–2001
Reviews	\$3,310.26	\$3,310.26	\$3,227.04	\$4,168.34	\$2,535.41
Appeals	\$5,300.97	\$5,300.97	\$5,754.42	\$5,234.98	\$4,913.51
Reviews and Appeals Held	68**	52	46	67	91
Caseload	338**	337	335	330	350

* The first two columns of the table reflect the average of the last three fiscal years.

** The forecast included only aviation cases. The forecast cases under the new Act will triple the caseload, reviews and appeals.

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

Agency Planned Spending

	Forecast Spending	Planned Spending	Planned Spending	Planned Spending
(\$ thousands)	2003–2004	2004–2005	2005–2006	2006–2007
Transportation Appeal Tribunal of Canada				
Budgetary Main Estimates	1,289.0	1,313.0	1,313.0	1,313.0
Total Main Estimates	1,289.0	1,313.0	1,313.0	1,313.0
Adjustments*	235.0	—	—	—
Net Planned Spending	1,524.0**	1,313.0	1,313.0	1,313.0
Plus: Cost of services received without charge	168.3	170.7	172.0	173.4
Net Cost of the Agency	1,592.3	1,483.7	1,485.0	1,486.4
Full-time Equivalents	9	9	9	9

* Adjustments are to accommodate approvals obtained since the Main Estimates and are to include Budget initiatives, Supplementary Estimates, carry-forward, etc.

** Reflects the best forecast of total net planned spending to the end of this fiscal year.

Section V: Annexes

The following planning table is applicable to the Transportation Appeal Tribunal of Canada:

Table 5.1: Net Cost of Program for the Estimates Year

(\$ thousands)	Total
Net Planned Spending (Total Main Estimates plus Adjustments as per the Planned Spending Table)	1,313.0
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada (PWGSC)	170.7
Contributions covering employers' share of employees' insurance premiums and expenditures paid by TBS (excluding revolving funds)*	51.9
Worker's compensation coverage provided by Human Resources Canada	—
Salary and associated expenditures of legal services provided by Justice Canada	—
	222.6
<i>Less: Non-respendable Revenue</i>	—
2004–2005 Net cost of Program	1,535.6

* The difference between the total in the agency planned spending table at page 10 and the total in the above table is the contributions covering employers' share of employees' insurance premiums and expenditures paid by TBS in the amount of \$51,900.

Section VI: Other Information

References

Transportation Appeal Tribunal of Canada

333 Laurier Avenue West
Room 1201
Ottawa, Ontario
K1A 0N5

Telephone: (613) 990-6906
Fax: (613) 990-9153
e-mail: info@tatc.gc.ca
Internet Web Site:
<http://www.tatc.gc.ca>

Faye Smith – Chairperson

Allister Ogilvie – Vice-Chairperson

Marie Desjardins – Acting Executive Services
Manager

Mary Cannon – Registrar (Ontario, Prairie &
Northern and Pacific Regions)

Susanne Forgues – Registrar (Headquarters,
Quebec and Atlantic Regions)

Performance Report March 31, 2003
Annual Report 2002–2003
Guide to Tribunal Hearings
The Transportation Appeal Tribunal of
Canada : pamphlet

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