

ANNUAL REPORT

**FOR THE FISCAL YEAR ENDING
MARCH 31, 2015**

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June 30, 2015

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, 2015.

Yours sincerely,

Stephen A. Leach
Chairperson

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CHAPTER 1

HIGHLIGHTS

The Canadian International Trade Tribunal (the Tribunal) is recognized domestically and globally as a centre of excellence in the fair and timely adjudication of trade law matters. The Tribunal is a quasi-judicial body which provides Canadian and international businesses with access to fair, transparent and timely trade remedy and federal government procurement inquiries, and customs and excise tax appeals. At the request of the Government, the Tribunal provides advice in tariff, trade, commercial and economic matters.

The Tribunal proudly celebrated its 25th anniversary in 2014. The Tribunal began operations on December 31, 1988, as the result of a merger of the Tariff Board, the Canadian Import Tribunal and the Textile and Clothing Board. However, its history goes back to the time of Confederation and the Board of Customs, whose appellate mandate was transferred to the Tariff Board in the 1950s.

The Canadian Import Tribunal was originally established in 1969 as the Anti-dumping Tribunal. Its name change reflected a broader mandate to conduct injury inquiries in both anti-dumping and countervailing duty proceedings under the *Special Import Measures Act (SIMA)*, as well as in safeguard cases. The Tribunal's third predecessor, the Textile and Clothing Board, was formed in the early 1970s and inquired into safeguard complaints by the Canadian textile and apparel industries. Lastly, on January 1, 1994, the Tribunal absorbed the Procurement Review Board, extending the Tribunal's mandate to include inquiries into whether federal procurement processes have been carried out in accordance with Canada's domestic and international trade obligations.

October 31, 2014, demarcated the end of the modern day Tribunal, as its staff and budget were transferred to the Administrative Tribunals Support Service of Canada (ATSSC). As of November 1, 2014, the Tribunal's Chairperson and members rely upon the ATSSC for corporate and registry services and, most significantly, its core mandate services, including trade remedy investigations, legal services and other mandate-specific work. While it is too early to assess the impact of transferring the Tribunal's resources to a service provider, the Tribunal has quickly adapted to the new service model by, among other things, changing its governance structure to reflect this transfer.

Trade Remedies

The Tribunal plays a significant role within Canada's trade remedy system. Under *SIMA*, the Tribunal determines whether the dumping and subsidizing of imported goods cause injury or threaten to cause injury to a domestic industry. As of December 31, 2014, there were 25 *SIMA* findings and orders in force, affecting approximately \$8.0 billion in shipments, \$0.5 billion in investments, 22,000 direct jobs and \$1.4 billion in imports, representing about 2.34 percent of Canadian shipments, 1.09 percent of Canadian employment and 0.29 percent of Canadian imports.¹ All of these trade remedy decisions were issued within *SIMA*'s tight statutory deadlines.

Procurement Review

During fiscal year 2014-2015, the Tribunal received 69 new procurement complaints and issued 65 decisions on whether to accept the complaints for inquiry. The Tribunal also issued 27 final decisions on merit where complaints were accepted for inquiry. Combined, this represents a total of 92 decisions. The 69 complaints that the Tribunal received in this fiscal year pertained to 50 different contracts with a collective value of over \$950 million.² All procurement review decisions were issued within the Tribunal's legislated deadlines.

Appeals

Pursuant to *SIMA*, the *Customs Act* and the *Excise Tax Act*, a total of 50 appeals were filed with the Tribunal during the reporting period. The Tribunal issued 23 decisions under the *Customs Act*, 24 decisions under the *Excise Tax Act* and 3 decisions under *SIMA*. All appellate decisions issued in 2014-2015 were issued within 120 days of being heard by the Tribunal.

Caseload

The first table below contains statistics pertaining to the Tribunal's caseload for 2014-2015. The second table contains statistics relating to other case-related activities in 2014-2015. These statistics illustrate the complexity and diversity of the cases considered by the Tribunal.

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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, 2012-2013 and 2013-2014.
 2. The collective value of the 69 complaints received in this fiscal year does not reflect the exact total value of the contracts. Of the 69 complaints, 10 contained unknown contract values, and 30 complaints were filed against 11 contracts that had the same solicitation number. By comparison, 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; in fiscal year 2012-2013, the Tribunal received 43 complaints with a collective value of over \$318 million; and, in fiscal year 2013-2014, the Tribunal received 49 complaints with a collective value of over \$128 million.

Tribunal Caseload Overview—2014-2015

	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, 2015)
Trade remedies								
Preliminary injury inquiries	-	3	3	N/A	N/A	3	-	-
Inquiries	1	3	4	N/A	N/A	2	-	2
Requests for public interest inquiries	1	1	2	-	1	1	-	1
Public interest inquiries	-	-	-	-	-	-	-	-
Requests for interim reviews	-	1	1	-	1	1	-	-
Interim reviews	1	-	1	N/A	N/A	-	-	1
Expiries ¹	1	5	6	6	-	6	-	-
Expiry reviews	-	6	6	N/A	N/A	3	-	3
Remanded cases	-	-	-	N/A	N/A	-	-	-
TOTAL	4	19	23	6	2	16	-	7
Procurement								
Complaints received	1	69	70	33	32	65	2	3
Complaints accepted for inquiry	8	N/A	8	N/A	N/A	27	4	10
Remanded cases ²	-	-	-	N/A	N/A	-	N/A	-
TOTAL	9	69	78	33	32	92	6	13
Appeals								
Extensions of time								
<i>Customs Act</i>	-	2	2	N/A	N/A	2	-	-
<i>Excise Tax Act</i>	-	-	-	N/A	N/A	-	-	-
TOTAL	-	2	2	N/A	N/A	2	-	-
Appeals								
<i>Customs Act</i>	40	47	87	N/A	N/A	23	20	44
<i>Excise Tax Act</i>	26	-	26	N/A	N/A	24	-	2
<i>Special Import Measures Act</i>	3	3	6	N/A	N/A	3	-	3
Remanded cases	-	2	2	N/A	N/A	-	-	2
TOTAL	69	52	121	N/A	N/A	50	20	51
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 2014-2015

	Trade Remedy Activities	Procurement Review Activities	Appeals	Standing Textile Reference	TOTAL
Orders					
Disclosure orders	23	-	-	-	23
Cost award orders	N/A	13	N/A	N/A	13
Compensation orders	N/A	3	N/A	N/A	3
Production orders	3	6	2	-	11
Postponement of award orders	N/A	2	N/A	N/A	2
Rescission of postponement of award orders	N/A	1	N/A	N/A	1
Directions/administrative rulings					
Requests for information	202	-	-	-	202
Motions	-	11	2	-	13
Subpoenas	2	-	1	-	3
Other statistics					
Public hearing days	17	4	23	-	44
File hearings ¹	11	57	7	-	75
Witnesses	53	22	38	-	113
Participants	133	113	143	-	389
Questionnaire replies	268	N/A	N/A	-	268
Pages of official records ²	101,061	43,209	38,229	-	182,499
<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 independent and impartial manner. It 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 Canada Border Services Agency (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)*, the *Canada-Panama Free Trade Agreement (CPAFTA)*, the *Canada-Honduras*

Free Trade Agreement (CHFTA) and, since January 1, 2015, the *Canada-Korea Free Trade Agreement (CKFTA)*;

- 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
<i>CITT Act</i>	
18	Inquiries on economic, trade or commercial interests of Canada by reference from the Governor in Council
19	Inquiries into tariff-related matters by reference from the Minister of Finance
19.01	Safeguard inquiries concerning goods imported from the United States 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
19.019	Safeguard inquiries concerning goods imported from Honduras by reference from the Governor in Council
19.0191	Safeguard inquiries concerning goods imported from Korea 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
23(1.095) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Honduras
23(1.096) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Honduras – textile and apparel goods
23(1.097) and 26(1)	Safeguard complaints by domestic producers concerning goods imported from Korea
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

Section	Authority
30.25(7)	Expiry reviews of measures relating to market disruption or trade diversion in respect of goods originating in China
30.27–30.32	Provisional safeguard inquiries on goods imported from Korea when critical circumstances exist
SIMA	
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
Customs Act	
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
Excise Tax Act	
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
Energy Administration Act	
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 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 in Ottawa, Ontario, but may also be held elsewhere in Canada depending on the circumstances of the particular case. 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 permanent members, including the Chairperson. The Chairperson assigns cases to members and manages the Tribunal's work. Permanent members are appointed by the Governor in Council for a term of up to five years, which can be renewed once. Temporary members may also be appointed. Members have a variety of educational backgrounds and experience.

Throughout the year, the Chairperson of the Tribunal was Mr. Stephen A. Leach. In July 2014, Mr. Jean Bédard was appointed as permanent member. In the autumn of 2014, Mr. Pasquale Michaelé Saroli, a permanent member, retired and Mr. Serge Fréchette, a former permanent member, was appointed as a temporary member. In January 2015, Mr. Peter Burn and Ms. Rose Ritcey were appointed as permanent members. The other members of the Tribunal are Mr. Jason W. Downey, Ms. Ann Penner and Mr. Daniel Petit.

Support Services to the Tribunal

Effective November 1, 2014, the entire permanent staff of the Tribunal was transferred to the ATSSC. This new organization is tasked to provide 11 federal administrative tribunals with the full range of support services and facilities that they require to meet their statutory obligations. These services include the common functions of corporate services (e.g. human resources, financial services, information technology, accommodation and communications), registry services and core mandate support services (e.g. research and analysis, legal and other case-specific work). As a result, the Tribunal now consists only of its seven members. Currently, the Tribunal receives support in relation to registry services and legal services, as well as investigative services for the trade remedy area of its mandate, from staff in the CITT Secretariat of the ATSSC.

Outreach

The Bench and Bar Committee 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.

In early 2015, the Tribunal laid the groundwork to establish a new, more representative Advisory Committee to replace the Bench and Bar Committee. It expects that this committee will be in place by the fall of 2015.

The Tribunal regularly meets foreign delegations to exchange insights and best practices about areas of mutual interest. In fiscal year 2014-2015, the Tribunal met with peers from Australia, China, New Zealand, Brazil and the United States, among others. Of particular significance, insights gained from a visit to the United States Court of International Trade were incorporated into the Tribunal's new governance structure.

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-2014-001	PI-2014-002	PI-2014-003
Product	Concrete reinforcing bar	Oil country tubular goods	Photovoltaic modules and laminates
Type of case/country	Dumping and subsidizing/China, Korea and Turkey	Dumping and subsidizing/Chinese Taipei, India, Indonesia, Philippines, Korea, Thailand, Turkey, Ukraine and Vietnam	Dumping and subsidizing/China
Date of determination	August 12, 2014	September 19, 2014	February 3, 2015
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
Participants	8	16	21
Pages of official record	4,670	8,950	6,286

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 three 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. Under the direction of the Tribunal, ATSSC staff carries out extensive research for each inquiry. Questionnaires are sent to Canadian producers, importers, purchasers, foreign producers and exporters. Primarily on the basis of questionnaire responses, ATSSC staff 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-2013-005	NQ-2014-001	NQ-2014-002	NQ-2014-003
Product	Hot-rolled carbon steel plate	Concrete reinforcing bar	Oil country tubular goods	Photovoltaic modules and laminates
Type of case/country	Dumping/Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and Korea	Dumping and subsidizing/China, Korea and Turkey	Dumping and subsidizing/Chinese Taipei, India, Indonesia, Philippines, Korea, Thailand, Turkey, Ukraine and Vietnam	Dumping and subsidizing/China
Date of finding	May 20, 2014	January 9, 2015	In progress	In progress
Finding	Threat of injury	Threat of injury		
Questionnaires sent	100	229		
Questionnaires received	43	51		
Requests for exclusions	18	2		
Requests for exclusions granted	15	1		
Participants	18	11		
Pages of official record	12,506	11,025		
Public hearing days	5	4		
Witnesses	14	15		

Final Injury Inquiries Completed in the Fiscal Year

As illustrated in the above table, the Tribunal completed two final injury inquiries in the fiscal year. The completed inquiries concerned hot-rolled carbon steel plate and concrete reinforcing bar. The following summaries were prepared for general information purposes only.

NQ-2013-005—Hot-rolled Carbon Steel Plate

This inquiry concerned dumped hot-rolled carbon steel plate and high-strength low-alloy steel plate (hot-rolled carbon steel plate) originating in or exported from Brazil, Chinese Taipei, Denmark, Indonesia, Italy, Japan and Korea. During the inquiry, the CBSA terminated its dumping investigation in respect of the subject goods originating in or exported from Chinese Taipei.

There were 19 participants to the inquiry. During a five-day hearing, 14 witnesses appeared before the Tribunal. The official record contained 12,506 pages.

The Tribunal observed that, in absolute terms, the apparent volume of imports of the subject goods almost tripled between 2010 and 2012, before declining substantially in the 2013 interim period (January to September 2013). However, within this aggregate picture, imports of the subject goods by the individual subject countries did not move in unison but, instead, followed different trajectories over the period of inquiry. The Tribunal found that the prices of the subject goods had not significantly undercut those of sales of the like goods during the period of inquiry, nor was the Tribunal able to conclude from the evidence on the record that the subject goods had caused significant price depression. The evidence did indicate the occurrence of some, but not significant, price suppression in 2012.

The Tribunal found that production declined only to a limited degree. Moreover, the dumping of the subject goods had not had a significant negative impact on actual or potential domestic sales volumes. The Tribunal found that the dumped goods caused a decline in the domestic industry's market share, but only to a limited degree. With respect to profitability, the Tribunal was of the view that there were a number of factors that contributed to the domestic industry's poor financial performance during the period of inquiry and that, while the subject goods may have had some impact on profitability and productivity, their impact was limited. The Tribunal did not find that imports of the subject goods had had an adverse impact on the domestic industry in terms of employment and wages. The Tribunal concluded that the dumping of the subject goods was not, in and of itself, a cause of material injury.

However, the Tribunal also noted the chronic global overcapacity situation with regard to hot-rolled carbon steel plate, the export capacity of the subject countries and their ability to ramp up their exports of the subject goods to Canada, the fact that plate tends to fetch a higher price on the Canadian market than elsewhere, the projected growth in Canada in certain sectors of the economy that rely on plate, the incentive of producers to maintain a high level of production and capacity utilization in order to achieve economies of scale and reduce average costs, current steel price increases stalling, and the prospect of longer-term recovery of the domestic plate market being more modest than previously forecast. Given these market conditions, the Tribunal was of the view that Canada was likely to be an attractive market for exporters and that there was a clearly foreseen and imminent threat of material injury to the domestic industry.

NQ-2014-001—Concrete Reinforcing Bar

This inquiry concerned dumped and subsidized concrete reinforcing bar originating in or exported from China, Korea and Turkey (the subject rebar).

There were 10 participants to the inquiry. During a four-day hearing, 15 witnesses appeared before the Tribunal. The official record contained 11,025 pages.

The Tribunal observed that, despite decreases in interim 2014, there was a significant increase in the volume of imports of the subject rebar over the period of inquiry, both in terms of absolute volume and relative to domestic production and consumption.

At first glance the data revealed that price undercutting appeared to be present at the aggregate level throughout the period of inquiry. However, taking into account a domestic price premium component, and further adjusting the prices to account for costs related to inland shipping, the severity or extent of the actual price undercutting appeared to be significantly reduced. When applied to both the aggregate prices and the injury allegations themselves, the Tribunal did not conclusively find that the subject rebar undercut domestic prices significantly during the period of inquiry.

Moreover, while the Tribunal recognized that the subject rebar was generally lower-priced, it could not come to the conclusion that significant price depression occurred throughout the period of inquiry because of the lack of correlation in comparative pricing trends. The Tribunal did however note some indication of price depression towards the end of the period of inquiry. In relation to price suppression, the Tribunal observed that there was nothing to suggest that price suppression occurred throughout the period of inquiry; there was however limited evidence indicating a trend towards price suppression at the end of the period of inquiry.

The Tribunal observed that the domestic industry's sales did not decline over the period of inquiry, despite a significant increase in sales of the subject rebar. The domestic industry's market share decreased slightly from 2011 to 2012 and then increased in 2013, yet remained below the share that it held in 2011. For the interim periods, the domestic industry increased its market share in 2014 compared to 2013, but was unable to recover to the level of market share that it held in 2011.

The Tribunal also observed that the domestic industry's relatively strong financial performance, even in the year with the largest increase in the volumes of dumped and subsidized goods, indicated that, to the extent that the subject rebar had had an adverse impact on the domestic industry, it was not sufficient to constitute material injury as prescribed by *SIMA*.

The Tribunal determined that the continued and sustained presence of the low-priced subject rebar would have a further depressing effect on Canadian production and that, within the following 12 to 18 months, the accumulated depressing effects would likely have an imminent and material impact on the domestic industry. In the Tribunal's view, in the absence of anti-dumping and countervailing duties, the subject rebar 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. The Tribunal concluded that the dumping and subsidizing of the subject rebar was threatening to cause material injury to the domestic industry.

During the inquiry, the Tribunal denied a request for a regional exclusion for all rebar imported from the subject countries into the province of British Columbia for use or consumption within the province. The Tribunal found that, absent dumping and subsidizing, the domestic industry would be in a position to competitively serve the B.C. market and was willing and able to supply customers in British Columbia. The Tribunal also noted concerns regarding the enforcement of a finding with respect to product exclusions based on the location of use or consumption.

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

There were two final injury inquiries in progress at the end of the fiscal year concerning oil country tubular goods and photovoltaic modules and laminates.

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.

A request for a public interest inquiry concerning concrete reinforcing bar was filed with the Tribunal in 2014-2015. The request was under consideration at the end of the fiscal year. In addition, the Tribunal ruled on a request for a public interest inquiry received in the previous fiscal year (PB-2013-001) (decision dated April 14, 2014, and reasons dated April 24, 2014) and decided not to initiate a public interest inquiry of its findings dated December 13, 2013, in Inquiry No. NQ-2013-004 concerning circular copper tube.

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

	Interim Review No. RD-2013-003	Request for Interim Review No. RD-2014-001
Product	Liquid dielectric transformers	Pup joints
Type of case/country	Dumping/Korea	Dumping and subsidizing/China
Date of order	In progress	August 25, 2014
Order		No review
Participants		1
Pages of official record		75

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

As can be seen in the above table, the Tribunal ruled on Request for Interim Review No. RD-2014-001 and held Interim Review No. RD-2013-003 in abeyance pending related proceedings before the Federal Court of Appeal.

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-2013-003	LE-2014-001	LE-2014-002	LE-2014-003	LE-2014-004	LE-2014-005
Product	Certain fasteners	Hot-rolled carbon steel plate	Oil country tubular goods	Certain whole potatoes	Greenhouse bell peppers	Refined sugar
Type of case/country	Dumping and subsidizing/China and Chinese Taipei	Dumping/Ukraine	Dumping and subsidizing/China	Dumping/United States	Dumping/Netherlands	Dumping and subsidizing/United States, Denmark, Germany, Netherlands, United Kingdom and the European Union
Date of order or notice of expiry review	April 23, 2014	May 21, 2014	June 27, 2014	December 30, 2014	February 4, 2015	February 18, 2015
Decision	Expiry review initiated	Expiry review initiated	Expiry review initiated	Expiry review initiated	Expiry review initiated	Expiry review initiated
Participants	5	3	6	1	6	5
Pages of official record	450	400	1,200	220	350	916

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

On the basis of submissions from interested parties, the Tribunal was of the view that expiry reviews were warranted and initiated Expiry Review No. RR-2014-001 concerning fasteners, Expiry Review No. RR-2014-002 concerning hot-rolled carbon steel plate, Expiry Review No. RR-2014-003 concerning oil country tubular goods, Expiry Review No. RR-2014-004 concerning whole potatoes, Expiry Review No. RR-2014-005 concerning greenhouse bell peppers and Expiry Review No. RR-2014-006 concerning refined sugar.

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-2014-001	RR-2014-002	RR-2014-003	RR-2014-004	RR-2014-005	RR-2014-006
Product	Certain fasteners	Hot-rolled carbon steel plate	Oil country tubular goods	Certain whole potatoes	Greenhouse bell peppers	Refined sugar
Type of case/country	Dumping and subsidizing/China and Chinese Taipei	Dumping/Ukraine	Dumping and subsidizing/China	Dumping/United States	Dumping/Netherlands	Dumping and subsidizing/United States, Denmark, Germany, Netherlands, United Kingdom and the European Union
Date of order	January 5, 2015	January 30, 2015	March 20, 2015	In progress	In progress	In progress
Order	Order continued	Finding continued	Findings continued			
Questionnaires sent¹	426	57	126			
Questionnaires received²	74	35	44			
Participants	18	5	5			
Pages of official record	27,920	10,273	15,320			
Public hearing days	4	1	3			
Witnesses	9	5	10			

1. Requests that expiry review questionnaires be completed are sent to a comprehensive list of known domestic producers and to the largest 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 three expiry reviews during the reporting period.

RR-2014-001—Certain Fasteners

This expiry review concerned the dumping of certain carbon steel fasteners originating in or exported from China and Chinese Taipei and the subsidizing of such products originating in or exported from China (the subject fasteners).

There were 18 participants to the expiry review, with 9 witnesses appearing before the Tribunal during a four-day public hearing. The official record contained 27,920 pages.

The Tribunal was of the view that to allow the expiry of the order would likely result in a significant increase in the volume of imports of the subject fasteners 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. For these reasons, on January 5, 2015, the Tribunal continued its order, with amendment, made on January 6, 2010, in Expiry Review No. RR-2009-001, concerning certain carbon steel fasteners originating in or exported from China and Chinese Taipei.

RR-2014-002—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 Ukraine (the subject plate).

The Tribunal held a one-day public hearing. The Tribunal heard oral arguments in support of a continuation of the finding from two parties and testimony from five witnesses. Three parties opposed the continuation of the finding but did not present oral arguments or call any witnesses at the hearing. One party made nine requests for product exclusions, of which one was withdrawn. At the hearing, one party cross-examined witnesses and presented oral argument in support of its product exclusion requests. The official record contained 10,273 pages.

The Tribunal found that the expiry of the finding would result in the importation of significant volumes of the subject plate at prices that would undercut and depress the prices of the like goods, causing a downward spiral in prices that would likely cause material injury to the domestic industry. For these reasons, on January 30, 2015, the Tribunal continued its finding in respect of the aforementioned goods, but excluded the goods described in the eight product exclusion requests.

RR-2014-003—Oil Country Tubular Goods

This expiry review concerned the dumping and subsidizing of oil country tubular goods originating in or exported from China (the subject oil country tubular goods). This was the first review of the findings made on March 23, 2010.

There were 5 participants in the expiry review, with 10 witnesses appearing before the Tribunal during a three-day public hearing. The official record contained 15,320 pages.

The Tribunal was of the view that the expiry of the findings, especially within the context of the recent decline in oil prices, would likely result in an increase in the volume of imports of the subject oil country tubular goods in the near to medium term at prices that could be expected to significantly undercut and depress those of the like goods, resulting in a significant adverse impact to the domestic industry's sales, profits, market share and output. Consequently, on March 2, 2015, the Tribunal continued its findings in respect of the subject oil country tubular goods.

Expiry Reviews in Progress at the End of the Fiscal Year

There were three 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 Application dismissed (March 16, 2015)
RR-2012-004	Thermoelectric containers	China	A—42—14 In progress
RR-2013-003	Aluminum extrusions	China	A—207—14 Application dismissed (October 16, 2014)
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 was one Tribunal finding before the WTO Dispute Settlement Body during the fiscal year. Chinese Taipei requested consultations and the establishment of a panel concerning the Tribunal's finding in Inquiry No. NQ-2012-003.

SIMA Findings and Orders in Force

As of December 31, 2014, there were 25 *SIMA* findings and orders in force.

Summary of Findings and Orders in Force as of March 31, 2015

Inquiry No. or Expiry Review No.	Date of Decision	Product	Type of Case/Country	Related Decision No. and Date
NQ-2010-001	October 9, 2010	Greenhouse bell peppers	Dumping/Netherlands	
NQ-2010-002	April 19, 2011	Steel grating	Dumping and subsidizing/China	
NQ-2011-001	April 10, 2012	Pup joints	Dumping and subsidizing/China	
NQ-2011-002	May 24, 2012	Stainless steel sinks	Dumping and subsidizing/China	
NQ-2012-001	November 20, 2012	Liquid dielectric transformers	Dumping/Korea	
NQ-2012-002	November 30, 2012	Steel piling pipe	Dumping and subsidizing/China	
NQ-2012-003	December 11, 2012	Carbon steel welded pipe	Dumping/Chinese Taipei, India, Oman, Korea, Thailand and the United Arab Emirates Subsidizing/India	
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	
NQ-2013-005	May 20, 2014	Hot-rolled Carbon Steel Plate	Dumping/Brazil, Denmark, Indonesia, Italy, Japan and Korea	
NQ-2014-001	January 9, 2015	Concrete Reinforcing Bar	Dumping/China, Korea and Turkey Subsidizing/China	

Summary of Findings and Orders in Force as of March 31, 2015 (cont'd)

Inquiry No. or Expiry Review No.	Date of Decision	Product	Type of Case/Country	Related Decision No. and Date
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)
RR-2014-001	January 5, 2015	Carbon steel fasteners	Dumping/China and Chinese Taipei Subsidizing/China	RR-2009-001 (January 6, 2010) NQ-2004-005 (January 7, 2005)
RR-2014-002	January 30, 2015	Hot-rolled carbon steel plate and high-strength low-alloy plate	Dumping/Ukraine	NQ-2009-003 (February 2, 2010)
RR-2014-003	March 2, 2015	Oil country tubular goods	Dumping and subsidizing/China	NQ-2009-004 (March 23, 2010)
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*, the *CPAFTA*, the *CHFTA* or the *CKFTA*, 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 should, by statute, 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.

Procurement Complaints

Summary of Activities

	2013-2014	2014-2015
Number of Procurement Cases Received		
Carried over from previous fiscal year	2	9
Received in fiscal year	49	69
Total	51	78
Disposition—Complaints Accepted for Inquiry		
Dismissed	2	3
Not valid	6	6
Valid or valid in part	4	13
Ceased	2	5
Withdrawn/abandoned	-	4
Subtotal	14	31
Disposition—Complaints Not Accepted for Inquiry		
Lack of jurisdiction/not a potential supplier	3	4
Late filing	6	8
Not a designated contract/no reasonable indication of a breach/premature	17	20
Withdrawn/abandoned	2	2
Subtotal	28	34
Outstanding at End of Fiscal Year	9	13
Decisions to initiate	20	33
Remanded cases	-	-

Summary of Selected Determinations

During the fiscal year, the Tribunal issued 67 decisions on whether to accept complaints for inquiry and 31 final decisions on complaints that were accepted for inquiry, for a total of 98 decisions. Thirteen cases were still in progress at the end of the fiscal year, 3 of which were 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-2014-006, PR-2014-015 and PR-2014-020, and PR-2014-016 and PR-2014-021—CGI Information Systems and Management Consultants Inc.

As part of a multi-year information technology transformation initiative aimed at achieving operational efficiencies in the delivery of some of its services, Innovapost Inc., on behalf of the Canada Post Group of Companies (Canada Post), initiated two separate solicitations. The Tribunal received, and ultimately decided to inquire into, five complaints related to these solicitations, which were for data centre services and application development services.

All the complaints involved the adequacy of Canada Post's post-contract award debriefing of CGI Information Systems and Management Consultants Inc. (CGI), in light of Canada Post's disclosure obligations as set out in *NAFTA*.

– PR-2014-006

CGI's first complaint was that Canada Post failed to disclose pertinent information on the reasons for not selecting CGI's tender, including a detailed evaluation plan, and the evaluators' consensus and individual scoring sheets. CGI also argued that Canada Post failed to provide sufficient information on the relevant characteristics and advantages of the winning bid. Canada Post argued that the only pertinent information that it was obligated to provide was that CGI's proposal had not been selected because it had not met the 70 percent scoring threshold, and that the only relevant information with respect to the winning bid was that it had met the 70 percent threshold. Further, Canada Post argued that its confidentiality obligations towards the winning bidder prevented it from disclosing further information regarding its bid. With respect to the detailed evaluation plan, Canada Post submitted that this was confidential commercial and proprietary information belonging to Canada Post that could not be disclosed in order to ensure the fairness and efficiency of future potential procurements for the same or similar services.

After filing its complaint, CGI also filed a motion for production of the documents that it had requested from Canada Post during the debriefing. The Tribunal granted the motion in part and ordered Canada Post to produce certain documents, including the detailed evaluation plan and the individual evaluators' scoring sheets. However, Canada Post informed the Tribunal that it could not provide the individual evaluators' scoring sheets, as it was Canada Post's policy to destroy them after the consensus scores are finalized.

Recalling its decision in File No. PR-2007-004 (*Ecosfera Inc. v. Department of the Environment*), where the Tribunal held that the "primary purpose" of a debriefing is to "... provide transparency as to the reasons for not selecting the proposal ..." so as to enable unsuccessful bidders to determine the nature of their rights in view of the requirements set out in *NAFTA*, the Tribunal reiterated that the disclosure obligations under *NAFTA* are broad. The Tribunal found that Canada Post had breached this obligation by not providing the detailed evaluation plan used by the evaluators, including the evaluation criteria, scales, weights and methodology, to CGI as part of the debriefing process. It commented that the evaluation criteria and how they were applied were relevant to the reasons for not selecting a tender. The disclosure of such information also allows bidders to determine their rights under *NAFTA*, one of the central requirements of which is that procuring entities award contracts in accordance with the criteria specified in the tender documentation. Similarly, the Tribunal found that Canada Post was obligated to provide the individual evaluators' scores, even though consensus scoring was ultimately used by the evaluators to render a decision.

The Tribunal rejected Canada Post's argument that the detailed evaluation plan should not be disclosed because it may have a negative impact on future procurement processes, finding that

administrative convenience is not a justification for ignoring the transparency obligations imposed by *NAFTA*. Nonetheless, the Tribunal found that Canada Post did have an explicit obligation under *NAFTA* to protect the confidential information provided to it by the successful bidder and, therefore, ruled that Canada Post's debriefing with respect to the relative strengths of the successful tender was sufficient.

The Tribunal therefore ordered Canada Post to provide the detailed evaluation plan to CGI and recommended that Canada Post amend its debriefing policies and procedures to ensure that they are consistent with *NAFTA* disclosure obligations.

– PR-2014-015 and PR-2014-020

CGI's subsequent complaints involved the same solicitation process as in File No. PR-2014-006. CGI alleged further perceived deficiencies in the level of post-contract award disclosure, as well as issues with the bid evaluation process itself.

As set out above, during these proceedings, CGI and the Tribunal became aware that it was Canada Post's policy to destroy individual evaluators' scoring sheets after the evaluators arrived at a consensus score. In these cases, CGI submitted that Canada Post's destruction of the individual scoring sheets met the test of the evidentiary doctrine of spoliation. If it is shown that a party disposed of evidence to affect ongoing or contemplated litigation, the doctrine of spoliation establishes a rebuttable presumption that the destroyed evidence would not have assisted the party that destroyed it. CGI also submitted that the failure to disclose certain documents to CGI in the context of the debriefing process amounted to a breach of Article 1015(6) of *NAFTA* and that destruction of the individual scoring sheets was a violation of Article 1017(1)(p) of *NAFTA*.

Ultimately, the Tribunal found that the evidence on the record of these proceedings did not establish that the individual scoring sheets had been destroyed in contemplation of litigation, as they were destroyed before CGI filed its first complaint and in accordance with Canada Post's policy to remove information that it perceived as peripheral or transient from the file. Accordingly, the Tribunal determined that the test of the evidentiary doctrine of spoliation had not been met.

In addition, although Canada Post informed the Tribunal during the course of these proceedings that it would be changing its policy with respect to the retention of individual evaluators' scoring sheets, the Tribunal found that the failure to retain these documents was a violation of Article 1017(1)(p) of *NAFTA*. It again recommended that Canada Post amend its debriefing and document retention policies and procedures in order to ensure conformity with its *NAFTA* obligations.

In addition to its allegations regarding the destruction of documents, CGI alleged that Canada Post's evaluation of the bids was deficient in several ways. Specifically, CGI alleged that the rating scale used by the evaluators was inconsistent with the terms of the RFP, that the evaluators had preferences for certain characteristics over others that had not been disclosed in the RFP and that several specific aspects of CGI's proposal were unreasonably evaluated because the evaluation was tainted by improper considerations, including bias. None of these grounds of complaint were found to be valid. Ultimately, the Tribunal found that Canada Post's evaluation was conducted in a reasonable manner, that there were no criteria applied that were not at least related to and discernible from the RFP and that there was no reasonable apprehension of bias in the conduct of the evaluations. This decision is currently the subject of judicial review by the Federal Court of Appeal.

These two complaints involved a different solicitation from File Nos. PR-2014-006, PR-2014-015 and PR-2014-020, but raised many of the same issues with respect to the debriefing process and the destruction of the individual evaluators' scoring sheets. The Tribunal's findings on those issues were consistent with those detailed above. CGI also claimed that the bid evaluation process had not been conducted in a reasonable manner because certain adjustments that were made to the scores of other bidders' technical proposals after site visits had been conducted were contrary to what was permitted by the RFP.

The Tribunal found that, while the RFP did allow for adjustments to be made if information that *contradicted* any information contained in the bid was discovered during a site visit, in certain cases, the evaluators had instead adjusted a score because the information discovered during the site visit had *confirmed* information that was in the bid, but that the evaluators had improperly discredited in their initial review of the technical proposal. Further, in some cases, the change in scoring was based on discussions between individual evaluators and did not engage the consensus scoring process. While the Tribunal did not find that this amounted to improper bid repair, it did find that this practice was based on an unreasonable interpretation of a provision in the RFP. Furthermore, it found that the fact that the evaluators ignored vital information in their initial evaluation of the technical proposals brought into question the integrity of the entire evaluation process. Despite the fact that CGI had not conclusively demonstrated that the changes to other bidders' scores directly impacted its success in the procurements at issue, the Tribunal nevertheless ordered Canada Post to re-evaluate all bidders' technical proposals with a new team of evaluators.

Disposition of Procurement Complaints

File No.	Complainant	Status/Decision
PR-2013-031	Legacy Products Corporation	Decision issued on April 2, 2014 Complaint valid in part
PR-2013-032	Star Group International Trading Corporation	Decision issued on April 7, 2014 Complaint valid
PR-2013-037	Vireo Network Inc.	Decision issued on April 23, 2014 Complaint not valid
PR-2013-039	High Criteria Inc.	Decision issued on April 16, 2014 Complaint not valid
PR-2013-041	Alcohol Countermeasure Systems Corp.	Decision issued on April 24, 2014 Complaint valid
PR-2013-044	Valcom Consulting Group Inc.	Decision issued on July 9, 2014 Complaint not valid
PR-2013-046	StenoTran Services Inc. and Atchison & Denman Court Reporting Services	Decision issued on July 24, 2014 Complaint valid in part
PR-2013-047	StenoTran Services Inc.	Complaint withdrawn on May 16, 2014
PR-2013-049	Greenline Systems Canada ULC	Decision made on April 4, 2014 No reasonable indication of breach
PR-2014-001	MGIS Inc. and iGeoSpy Inc. in Joint Venture	Decision made on April 10, 2014 Not a designated contract
PR-2014-002	The Intersol Group	Complaint withdrawn on May 6, 2014
PR-2014-003	eVision	Complaint abandoned while filing
PR-2014-004	Traductions TRD	Decision issued on July 7, 2014 Complaint not valid
PR-2014-005	eVision	Complaint abandoned while filing
PR-2014-006	CGI Information Systems and Management Consultants Inc.	Decision issued on August 26, 2014 Complaint valid in part
PR-2014-007	CAE Inc.	Decision issued on August 27, 2014 Complaint valid in part

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2014-008	M.D. Charlton Company Limited	Decision made on April 25, 2014 Late filing
PR-2014-009	Monroe Solutions Group Inc.	Decision made on May 12, 2014 Late filing
PR-2014-010	Oracle Canada ULC	Order issued on July 24, 2014 Dismissed-complaint filed outside the time limit
PR-2014-011	Madsen Diesel & Turbine Inc.	Decision made on May 21, 2014 Complaint premature
PR-2014-012	GESFORM International	Decision made on May 26, 2014 No reasonable indication of breach
PR-2014-013	Marathon Management Company	Decision made on May 28, 2014 Complaint premature
PR-2014-014	M.D. Charlton Company Limited	Decision made on May 28, 2014 Complaint premature
PR-2014-015	CGI Information Systems and Management Consultants Inc.	Decision issued on October 9, 2014 Complaint valid in part
PR-2014-016	CGI Information Systems and Management Consultants Inc.	Decision issued on October 14, 2014 Complaint valid in part
PR-2014-017	Altis Human Resources (Ottawa) Inc. and Excel Human Resources Inc.	Complaint withdrawn on July 10, 2014
PR-2014-018	Madsen Diesel & Turbine Inc.	Decision made on June 25, 2014 No reasonable indication of breach
PR-2014-019	Oracle Canada ULC	Order issued on November 17, 2014 Dismissed-complaint has no valid basis
PR-2014-020	CGI Information Systems and Management Consultants Inc.	Decision issued on October 9, 2014 Complaint valid in part
PR-2014-021	CGI Information Systems and Management Consultants Inc.	Decision issued on October 14, 2014 Complaint valid in part
PR-2014-022	Shaw Industries Inc.	Decision made on August 11, 2014 Not a designated contract
PR-2014-023	4Plan Consulting Corp.	Decision made on August 15, 2014 Complaint premature
PR-2014-024	2040077 Ontario Inc. o/a FDF Group	Decision made on August 27, 2014 Late filing
PR-2014-025	3202488 Canada Inc. o/a Kinetic Solutions	Decision issued on November 25, 2014 Complaint valid
PR-2014-026	TRADPARL	Order issued on October 17, 2014 Inquiry ceased
PR-2014-027	Ottawa Mortuary Services Ltd.	Decision made on September 18, 2014 No reasonable indication of breach
PR-2014-028	Centre de linguistique appliquée T.E.S.T. Ltée	Decision issued on December 16, 2014 Complaint valid in part
PR-2014-029	G. Rondeau	Order issued on November 3, 2014 Inquiry ceased
PR-2014-030	4Plan Consulting Corp.	Decision issued on February 10, 2015 Complaint valid
PR-2014-031	McGaw Technical Services Inc.	Decision made on October 2, 2014 Late filing
PR-2014-032	P. Turmel	Order issued on November 3, 2014 Inquiry ceased
PR-2014-033	COTRACO Ltd.	Decision issued on December 22, 2014 Complaint dismissed

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2014-034	UPA Construction Group (AB) Ltd.	Decision made on October 16, 2014 Late filing
PR-2014-035	Primex Project Management Ltd.	Decision made on October 20, 2014 Late filing
PR-2014-036	Bosch Rexroth B.V.	Decision made on October 29, 2014 Complaint premature
PR-2014-037	RadComm Systems Corp.	Decision issued on February 9, 2015 Complaint not valid
PR-2014-038	Sepha Catering Ltd.	Decision made on November 13, 2014 No reasonable indication of breach
PR-2014-039	eVision Inc. & SoftSim Technologies Inc.	Decision made on November 19, 2014 Lack of jurisdiction
PR-2014-040	R.P.M. Tech Inc.	Decision issued on March 25, 2015 Complaint not valid
PR-2014-041	MD Charlton Co. Ltd.	Order issued on January 30, 2015 Inquiry ceased
PR-2014-042	M. Bourjon	Decision made on November 26, 2014 Late filing
PR-2014-043	TRM Technologies Inc.	Order issued on January 30, 2015 Inquiry ceased
PR-2014-044	Monroe Solutions Group Inc.	Decision made on December 18, 2014 Complaint premature
PR-2014-045	Monroe Solutions Group Inc.	Decision made on December 22, 2014 Complaint premature
PR-2014-046	Monroe Solutions Group Inc.	Decision made on December 22, 2014 Complaint premature
PR-2014-047	Lanthier Bakery Ltd.	Accepted for inquiry--In progress
PR-2014-048	Pomerleau Inc.	Accepted for inquiry--In progress
PR-2014-049	Trebor Management	Decision made on January 21, 2015 No reasonable indication of breach
PR-2014-050	Samson & Associates	Accepted for inquiry--In progress
PR-2014-051	Strilkiwski Contracting Ltd.	Decision made on January 29, 2015 Complaint premature
PR-2014-052	HDP Group Inc.	Complaint withdrawn on March 2, 2015
PR-2014-053	Monroe Solutions Group Inc.	Accepted for inquiry--In progress
PR-2014-054	Monroe Solutions Group Inc.	Accepted for inquiry--In progress
PR-2014-055	Deloitte Inc.	Accepted for inquiry--In progress
PR-2014-056	Monroe Solutions Group Inc.	Accepted for inquiry--In progress
PR-2014-057	PricewaterhouseCoopers LLP	Accepted for inquiry--In progress
PR-2014-058	2040077 Ontario Inc. o/a FDF Group	Decision made on February 27, 2015 Complaint premature
PR-2014-059	Shaw Industries Inc.	Decision made on February 25, 2015 Not a potential supplier
PR-2014-060	Marcomm Systems Group Inc.	Accepted for inquiry--In progress
PR-2014-061	Falcon Environmental Services Inc.	Accepted for inquiry--In progress
PR-2014-062	HTS Engineering Ltd.	Decision made on March 5, 2015 Not a potential supplier
PR-2014-063	2040077 Ontario Inc. o/a FDF Group	Decision made on March 6, 2015 Complaint premature
PR-2014-064	Sani Sport	Decision made on March 10, 2015 Late filing

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2014-065	J. Plummer-Grolway	Decision made on March 9, 2015 Not a potential supplier
PR-2014-066	2040077 Ontario Inc. o/a FDF Group	Decision made on March 27, 2015 Not a designated contract
PR-2014-067	Heddle Marine Services Inc.	Under consideration
PR-2014-068	JOLI Distribution F. Hendel Inc.	Under consideration
PR-2014-069	Accelerated Technology Laboratories, Inc.	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-2013-013	Saskatchewan Institute of Applied Science and Technology	Saskatchewan Institute of Applied Science and Technology	A—91—14 Application dismissed (January 21, 2015)
PR-2013-035	Tritech Group Inc.	Attorney General of Canada	A—227—14 Application dismissed (February 4, 2015)
PR-2013-046	StenoTran Services Inc. and Atchison & Denman Court Reporting Services Limited	ASAP Reporting Services	A—373—14 Application discontinued (December 4, 2014)
PR-2013-046	StenoTran Services Inc. and Atchison & Denman Court Reporting Services Limited	StenoTran Services Inc. and Atchison & Denman Court Reporting Services Limited	A—374—14 Application discontinued (December 4, 2014)
PR-2014-022	Shaw Industries Inc.	Shaw Industries Inc.	A—393—14 In progress
PR-2014-015 & PR-2014-020	CGI Information Systems and Management Consultants Inc.	CGI Information Systems and Management Consultants Inc.	A—498—14 In progress
PR-2014-030	4Plan Consulting Corp.	Attorney General of Canada	A—136—15 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 amount of subsidy on 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*, granting an extension of time in one case and denying the application in the other. 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 did not issue any orders under the *Excise Tax Act* granting or denying extensions of time. There were no requests under the *Excise Tax Act* outstanding at the end of the fiscal year.

Appeals Received and Heard

During the fiscal year, the Tribunal received 50 appeals, excluding 2 appeals that were received on remand from the Federal Court of Appeal.

The Tribunal heard 17 appeals, 15 under the *Customs Act*, 1 under the *Excise Tax Act* and 1 under *SIMA*. It issued decisions on 50 appeals, which consisted of 23 appeals under the *Customs Act*, 24 under the *Excise Tax Act* and 3 under *SIMA*. All these decisions were issued within 120 days of the hearing.

Fifty-one appeal cases were outstanding at the end of the fiscal year, including 2 that are remand cases.

Appeals Before the Tribunal in Fiscal Year 2014-2015

Appeal No.	Appellant	Date of Decision	Status/Decision
<i>Customs Act</i>			
AP-2009-046R	Igloo Vikski Inc.		In progress
AP-2009-065	Mathews Equipment Limited	May 9, 2014	Withdrawn
AP-2011-014	De Ronde Tire Supply, Inc.		In progress
AP-2011-033	Costco Wholesale Canada Ltd.	May 23, 2014	Dismissed
AP-2011-057R and AP-2011-058R	Marmen Énergie Inc. and Marmen Inc.		In progress
AP-2011-059	Outdoor Gear Canada	February 17, 2015	Withdrawn
AP-2011-074	Coming Cable Systems LLC	May 20, 2014	Withdrawn
AP-2011-076	Coming Cable Systems LLC	May 20, 2014	Withdrawn
AP-2012-009	Volpak Inc.	January 20, 2015	Dismissed
AP-2012-018	Helly Hansen Canada Limited		In abeyance
AP-2012-034	Federal-Mogul Canada Limited		In progress
AP-2012-037	Northern Amerex Marketing Inc.		In abeyance
AP-2012-052	Cross Country Parts Distributors Ltd.	June 9, 2014	Dismissed
AP-2012-070	Cargill Inc.	May 23, 2014	Dismissed
AP-2013-007	Philips Electronics Ltd.	February 5, 2015	Withdrawn
AP-2013-019	Philips Electronics Ltd.	April 24, 2014	Dismissed
AP-2013-020	Les Distributions Saeco Canada Ltée	April 24, 2014	Dismissed
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-2013-029	Eastern Division Henry Schein Ash Arcona Inc.	May 20, 2014	Dismissed
AP-2013-032	Home Depot of Canada Inc.	April 28, 2014	Allowed
AP-2013-034	Mattel Canada Inc.	July 10, 2014	Allowed
AP-2013-038	Sunpan Trading & Importing Inc.		In abeyance
AP-2013-040	Mattel Canada Inc.	July 10, 2014	Allowed
AP-2013-042	Canadian Tire Corporation Ltd.	June 12, 2014	Dismissed
AP-2013-045	Shandex Sales Group Ltd.	April 30, 2014	Withdrawn
AP-2013-046	Tenth Siding Trading Co. dba Rock Gear	September 23, 2014	Allowed
AP-2013-047	T. Lysyshyn	July 14, 2014	Dismissed
AP-2013-048	Mountain Equipment Co-Operative	February 9, 2015	Withdrawn
AP-2013-049	Dynatrac Sleep Products Ltd.	September 16, 2014	Dismissed
AP-2013-050	BMW Canada Inc.	September 16, 2014	Dismissed
AP-2013-051	DALS Lighting Inc.	May 28, 2014	Withdrawn
AP-2013-053	IKEA Supply AG	September 18, 2014	Allowed
AP-2013-055	Kraft Canada Inc.	November 5, 2014	Allowed
AP-2013-056	Hanesbrands Inc.	March 13, 2015	Withdrawn
AP-2013-057	BSH Home Appliance Ltd.	October 27, 2014	Dismissed
AP-2013-058	Quagga Designs	March 26, 2015	Withdrawn

Appeals Before the Tribunal in Fiscal Year 2014-2015 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2013-059	A. Downey	March 16, 2015	Dismissed
AP-2013-060	Unitool Inc.	December 5, 2014	Dismissed
AP-2013-061	G&G Golf Company Inc.	December 29, 2014	Allowed
AP-2014-001	Furlani's Food Corp.		In abeyance
AP-2014-002	G.T. Wholesale Limited	February 19, 2015	Withdrawn
AP-2014-003	Sunbeam Corporation (Canada) Limited	August 26, 2014	Withdrawn
AP-2014-004	DSM Nutritional Products Canada Inc.	September 26, 2014	Withdrawn
AP-2014-005	Jet Equipment & Tools Ltd.	November 7, 2014	Withdrawn
AP-2014-006	D. Morgan	December 5, 2014	Dismissed
AP-2014-007	Wal-Mart Canada (IMD) Corp.		In abeyance
AP-2014-008	HBC Imports c/o Zellers		In abeyance
AP-2014-009	Maples Industries, Inc.		In progress
AP-2014-010	Kinedyne Canada Limited	July 25, 2014	Withdrawn
AP-2014-011	FFD Designs Canada Inc.	August 15, 2014	Withdrawn
AP-2014-012	J. Lamb	March 6, 2015	Dismissed
AP-2014-013	AMD Ritmed Inc.		In progress
AP-2014-014	Oya Costumes Inc.		In progress
AP-2014-015	AMD Ritmed Inc.		In progress
AP-2014-016	Tri-Ed Distribution Ltd.	September 22, 2014	Withdrawn
AP-2014-017	Bri-Chem Supply Ltd.		In progress
AP-2014-018	Air Canada		In progress
AP-2014-019	The Procter & Gamble Company	November 24, 2014	Withdrawn
AP-2014-020	Wakefield Canada Inc.		In abeyance
AP-2014-021	Worldpac Canada		In progress
AP-2014-022	Dollarama	February 18, 2015	Withdrawn
AP-2014-023	Dealers Ingredients Inc.		In progress
AP-2014-024	Globe Union (Canada Inc.)		In abeyance
AP-2014-025	Containerwest Manufacturing Ltd.		In progress
AP-2014-026	The Home Depot Canada		In progress
AP-2014-027	Ever Green Ecological Services Inc.		In progress
AP-2014-028	Southern Pacific Resource Corp.		In progress
AP-2014-029	Liteline Corporation		In progress
AP-2014-030	Knife & Key Corner Ltd.		In progress
AP-2014-031	Conteneurs Shop Containers		In abeyance
AP-2014-032	Les Services de Conteneurs A.T.S. Inc.		In abeyance
AP-2014-033	Schlumberger Canada Limited	February 26, 2015	Withdrawn
AP-2014-034	Synnex Canada Ltd.		In progress
AP-2014-035	Rona Corporation		In abeyance
AP-2014-036	Andritz Hydro Canada Inc.		In progress
AP-2014-037	Rona Corporation		In progress
AP-2014-038	CBM N.A. Inc.		In abeyance
AP-2014-039	P. Matheson		In progress
AP-2014-040	GrimmWorks Inc.		In progress
AP-2014-041	Tri-Ed Ltd.		In progress

Appeals Before the Tribunal in Fiscal Year 2014-2015 (cont'd)

Appeal No.	Appellant	Date of Decision	Status/Decision
AP-2014-042	EMCO Corporation Westlund		In progress
AP-2014-043	Richardson Oilseed Ltd.		In progress
AP-2014-044	Wolseley-Western Mechanical		In abeyance
AP-2014-045	Les pièces d'auto Transbec		In abeyance
AP-2014-046	D. Sabapathy		In progress
AP-2014-047	Orbea USA		In progress
<i>Excise Tax Act</i>			
AP-2009-020	Laidlaw Carriers PSC Inc.	January 12, 2015	Dismissed
AP-2009-021	Laidlaw Carriers Bulk GP Inc.	January 12, 2015	Dismissed
AP-2009-022	Laidlaw Carriers Van GP Inc.	January 12, 2015	Dismissed
AP-2009-023	Laidlaw Carriers Flatbed GP Inc.	January 12, 2015	Dismissed
AP-2009-025	Golden Eagle Express Inc.	January 12, 2015	Dismissed
AP-2009-026	Le Groupe G3 Inc.	January 12, 2015	Dismissed
AP-2009-027	Vedder Transport Ltd.	January 12, 2015	Dismissed
AP-2009-028	Warren Gibson Ltd.	January 12, 2015	Dismissed
AP-2009-029	2810026 Canada Ltd.	January 12, 2015	Dismissed
AP-2009-030	Warren Gibson Ltd.	January 12, 2015	Dismissed
AP-2009-031	Q-Line Trucking Ltd.	January 12, 2015	Dismissed
AP-2009-032	GST 2000 Inc.	January 12, 2015	Dismissed
AP-2009-033	J & F Trucking Corporation	January 12, 2015	Dismissed
AP-2009-034	Reimer Express Lines Ltd.	January 12, 2015	Dismissed
AP-2009-035	Celadon Canada Inc.	January 12, 2015	Dismissed
AP-2009-036	Cobra Trucking Ltd.	January 12, 2015	Dismissed
AP-2009-037	Motrux Inc.	January 12, 2015	Dismissed
AP-2009-038	L.E. Walker Transport Ltd.	January 12, 2015	Dismissed
AP-2009-039	Distribution Marcel Dion Inc.	January 12, 2015	Dismissed
AP-2009-040	Reimer Express Lines Ltd.	January 12, 2015	Dismissed
AP-2009-041	Direct Integrated Transportation	January 12, 2015	Dismissed
AP-2009-042	Harris Transport Ltd.	January 12, 2015	Dismissed
AP-2009-043	Benson Tank Lines Ltd.	January 12, 2015	Dismissed
AP-2012-002	Imperial Oil Limited, McColl-Frontenac Petroleum Inc.		In progress
AP-2012-003	Imperial Oil Limited, McColl-Frontenac Petroleum Inc.		In progress
AP-2013-052	Montreal Gateway Terminals Partnership	February 18, 2015	Dismissed
<i>Special Import Measures Act</i>			
AP-2012-035	Canadian Tire Corporation, Limited	October 29, 2014	Dismissed
AP-2013-008	Ideal Roofing Company Limited	July 10, 2014	Dismissed
AP-2013-009	Havelock Metal Products Inc.	July 10, 2014	Dismissed
EA-2014-001	Canadian Tire Corporation, Limited		In progress
EA-2014-002	Robertson Inc.		In progress
EA-2014-003	Robertson Inc.		In progress

Summary of Selected Decisions

Of the many cases heard by the Tribunal, several decisions issued during the fiscal year stand out, either because of the particular nature of the product in issue or because of the legal significance of the case. Brief summaries of a representative sample of such decisions follow, including one appeal heard pursuant to the *Customs Act*, one appeal pursuant to *SIMA* and one appeal pursuant to the *Excise Tax Act*. These summaries have been prepared for general information purposes only.

AP-2012-009—Volpak Inc. v. President of the Canada Border Services Agency

The appellant was a participant in the Import for Re-Export Program (IREP), which enables processors of certain products to apply for supplemental permits to import certain goods at a lower rate of duty than would normally apply, provided they are processed and re-exported within a certain amount of time.

The administration of IREP is divided between the Department of Foreign Affairs, Trade and Development (DFATD) (formerly the Department of Foreign Affairs and International Trade [DFAIT]) and the CBSA. Under the IREP, DFATD is responsible for issuing permits, in accordance with the *Export and Import Permits Act (EIPA)*, to participants that are then entitled to import the goods, process them and re-export them.

The CBSA is responsible for the tariff classification of goods imported under the IREP, in accordance with subsection 10(2) of the *Customs Tariff*. Goods that are imported (1) under the authority of a valid permit issued under the *EIPA* and (2) in compliance with the terms of that permit are classified as “within access commitment” and are assessed the lower rate of duty. Imported goods that exceed the quantity set out in the permit are classified as “over access commitment” and are subject to a higher rate of duty.

On February 16, 2011, the Minister of Foreign Affairs and International Trade (the Minister) issued a permit to Volpak under the IREP, which authorized the importation of 17,781 kg of fresh, bone-in chicken breasts from the United States at a lower rate of duty, on the condition that the processed products be re-exported to the United States within 90 days of the importation (the initial permit). All 17,781 kg were initially classified by the CBSA as “within access commitment”.

However, on or about July 25, 2011, the Minister cancelled Volpak’s initial permit and issued another permit that authorized the importation of only 4,379 kg of fresh, bone-in chicken breasts (the new permit). Shortly thereafter, the CBSA was informed that the Minister had cancelled the initial permit and issued the new permit, which led to the CBSA reclassifying the 13,402 kg of chicken breasts that were not covered by the new permit as “over access commitment” and assessing Volpak the higher rate of duty.

Volpak appealed this decision on the basis that both conditions of subsection 10(2) of the *Customs Tariff* were in fact met. With respect to the first condition, it argued that the 13,402 kg of chicken breasts were imported under a permit (i.e. the initial permit) that was valid at the time of importation, which is the relevant time for the determination of tariff classification. With respect to the second condition, Volpak argued that it had met the conditions of the permit by re-exporting all the goods in issue after they had been further processed. Volpak also argued, with respect to this second condition, that the CBSA had fettered its discretion by relying on DFAIT’s determination that the goods had not in fact been re-exported, instead of performing its own independent examination.

The Tribunal first noted that it only has jurisdiction over the tariff classification portion of the IREP process. Decisions made by DFATD regarding the issuance and cancellation of IREP permits are not within the Tribunal's jurisdiction.

The Tribunal then acknowledged that its own jurisprudence establishes that, in the vast majority of cases, the relevant period to be examined for the classification of goods is the time of importation. However, the Tribunal recognized that the IREP is unique, in that it involves the entire process of importing, processing and re-exporting, not a simple import transaction.

The Tribunal found that DFAIT, by cancelling Volpak's initial permit, essentially determined that the goods in issue were no longer part of the process and, therefore, no longer qualified as "within access commitment" for the purposes of the IREP. As the goods in issue were excluded from the IREP and were not imported under the authority of a valid permit, the Tribunal agreed that the CBSA had no option but to classify the goods in issue as "over access commitment".

Furthermore, since the CBSA's authority under the program is limited to determining the tariff classification of the goods in issue, any independent verification of Volpak's compliance with the terms of its permit would involve a review of DFAIT's decision and would undermine the statutory authority granted to the Minister. The CBSA did not fetter its discretion but instead acted in accordance with its role under the statutory scheme.

AP-2012-035—Canadian Tire Corporation, Limited v. President of the Canada Border Services Agency

During the period from September 2010 to June 2011, Canadian Tire Corporation, Limited (Canadian Tire) imported a number of different models of thermoelectric containers from China that were subject to anti-dumping and countervailing duties. Canadian Tire completed self-assessments of the duties owing on these importations based on normal values established by the CBSA in 2010, which were given in Chinese renminbi. Canadian Tire converted these normal values into Canadian dollars on the basis of the prevailing rate of exchange on the date of sale, which it determined to be the purchase order (PO) dates for the thermoelectric containers.

The CBSA subsequently issued a re-determination of Canadian Tire's self-assessments using the prevailing rate of exchange on the dates of shipment, as it did not have copies of the POs. Canadian Tire then filed blanket requests for further re-determinations using the PO dates and supplied the PO documentation.

Prior to issuing its decision with respect to Canadian Tire's request, the CBSA issued new normal values for some of the models of thermoelectric containers imported by Canadian Tire on the basis of updated sales and cost data for 2011-2012. Some of these new normal values were significantly higher than they had been due to a change in the calculation methodology employed by the CBSA.

On June 12, 2012, the CBSA issued a notice of re-determination, under the purported authority of section 59 of *SIMA*. The CBSA used the PO date as the date of sale, as requested by Canadian Tire, but also used the updated normal values applicable to the thermoelectric containers imported during that period. Although Canadian Tire was credited a refund due to the changes made to the dates of sale, the use of updated normal values resulted in a net amount of anti-dumping duties owing.

Canadian Tire argued that the purpose of its request was not to seek a re-determination of the normal values under section 58 of *SIMA*. Rather, it argued that, instead of re-calculating the normal values using the updated information, the CBSA should have treated its request as a correction of a clerical or

arithmetic error, as permitted by subsection 12(2), and issued it a refund on the basis of the changes to the exchange rate.

The Tribunal found that the evidence did not support Canadian Tire's claim that it had not sought to invoke section 58 of *SIMA*, because the letter that it had sent with its request for correction had in fact made reference to that section of the act and not to subsection 12(2). Further, the Tribunal found that the failure to supply the required documentation did not meet the definition of "clerical error", which the Federal Court established means an error in typewriting or transcription; nor was it an "arithmetic error", as no mistake in the calculation process was involved.

Canadian Tire also argued that the calculation and retroactive administration of normal values by the CBSA were unreasonable, incorrect and punitive. It claimed that it had simply sought to correct the exchange rate used in the original reassessment and that the CBSA's use of its request as the basis to initiate a re-determination of normal values was unlawful, as it breached principles of transparency, fairness and natural justice. It also claimed that the use of normal values that were not calculated until after it had made its request runs counter to Canada's practice of administering and enforcing duties on a prospective basis.

The Tribunal found that the wording of the re-determination provisions in *SIMA* does not restrict the CBSA to issuing its re-determination only on the basis of the scope of the request. In this case, the CBSA was entitled to concurrently adjust the date of sale and to re-calculate the amount of anti-dumping duties owing on the basis of the new normal values. Further, the Tribunal found that this retrospective application of normal values was consistent with the legislation and the CBSA's established practice.

Finally, the Tribunal found that the CBSA's methodology was also consistent with the wording of *SIMA* and its regulations.

AP-2013-052—Montreal Gateway Terminals Partnership v. Minister of National Revenue

Under the terms of the *Excise Tax Act* (the *Act*), diesel fuel is subject to excise tax; however, the excise tax paid by a purchaser who uses the diesel fuel to generate electricity is refundable, except if the electricity so generated is used primarily in the operation of a vehicle.

In this case, Montreal Gateway Terminals Partnership (MGTP) applied for a refund of the excise tax paid on diesel fuel which it had used to generate electricity to power its wheeled gantry cranes at the Port of Montréal. The Minister of National Revenue refused to grant the refund on the grounds that the fuel had been used to power the gantry cranes, which it considered to be "vehicles" within the terms of the *Act*. MGTP disagreed that the gantry cranes were "vehicles" because they are designed exclusively for vertical lifting, not for the transportation of goods or passengers from place to place.

The Tribunal found that the wheeled gantries were "vehicles" within the terms of the *Act*. The Tribunal determined that the Federal Court has found that a vehicle is characterized by its ability to transport or move something from place to place, and adopted that definition as binding. According to the Federal Court's interpretation, the transportation of goods is not limited to movement on the horizontal plane, but includes the lifting and lowering of goods. Therefore, the Tribunal found that the tasks performed by the gantry cranes used by MGTP amounted to the transportation of goods.

The Tribunal also noted that, although this is not their primary function, the gantry cranes are wheeled and can travel over short distances to move shipping containers from one place to another. It emphasized that the jurisprudence does not indicate that, to determine whether a device is a vehicle for the purposes of the *Act*, only its primary function must be examined and so considered that this secondary function could support its finding that the gantry cranes are "vehicles".

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-2011-057 and AP-2011-058	Marmen Énergie Inc. and Marmen Inc.	Marmen Énergie Inc. and Marmen Inc.	A—64—13 Appeal allowed (May 7, 2014)
AP-2009-046	Igloo Vikski Inc.	Igloo Vikski Inc.	A—65—13 Appeal allowed (November 17, 2014)
AP-2011-065	Proctor-Silex Canada	Proctor-Silex Canada	A—223—13 Appeal dismissed (May 7, 2014)
AP-2012-036	BalanceCo	BalanceCo	A—262—13 Appeal dismissed (May 20, 2014)
AP-2011-060	Cycles Lambert Inc.	Cycles Lambert Inc.	A—286—13 Appeal dismissed (February 13, 2015)
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 Appeal dismissed (September 30, 2014)
AP-2012-026	Euro-Line Appliances	President of the Canada Border Services Agency	A—369—13 Appeal dismissed (September 23, 2014)
AP-2012-070	Cargill Inc.	President of the Canada Border Services Agency	A—408—13 Appeal discontinued (August 22, 2014)
AP-2012-073	Skechers USA Canada, Inc.	Skechers USA Canada, Inc.	A—121—14 Appeal dismissed (March 2, 2015)
AP-2013-004	Ubisoft Canada Inc.	Ubisoft Canada Inc.	A—210—14 Appeal dismissed (November 3, 2014)
AP-2013-017	Double J Fashion Group Inc.	Double J Fashion Group Inc.	A—274—14 Appeal discontinued (March 17, 2015)
AP-2011-033	Costco Wholesale Canada Ltd.	Costco Wholesale Canada Ltd.	A—360—14 In progress
AP-2012-070	Cargill Inc.	Cargill Inc.	A—359-14 Appeal discontinued (February 12, 2015)
AP-2013-029	Eastern Division Henry Schein Ash Arcona Inc.	Eastern Division Henry Schein Ash Arcona Inc.	A—368—14 In progress
AP-2012-052	Cross Country Parts Distribution Ltd.	Cross Country Parts Distribution Ltd.	A—384—14 In progress
AP-2013-057	BSH Home Appliance Ltd.	BSH Home Appliance Ltd.	A—32—15 In progress
AP-2012-035	Canadian Tire Corporation, Limited	Canadian Tire Corporation, Limited	A—34—15 In progress
<p>Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.</p>			



CHAPTER VI

STANDING TEXTILE REFERENCE

Introduction

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

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

During fiscal year 2014-2015, 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

	2013-2014	2014-2015
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