



Canada Agricultural
Review Tribunal

Commission de révision
agricole du Canada

CANADA AGRICULTURAL
REVIEW TRIBUNAL

ANNUAL REPORT 2021-2022



Canada



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MESSAGE FROM **THE CHAIRPERSON**



For this fifth annual report, I feel that it is important to pay tribute to all our team members. Since the beginning of the pandemic, more than two years ago, the entire staff of the Canada Agricultural Review Tribunal (Tribunal) have come together with a common goal – the pursuit of

excellence. Despite a context marked by uncertainty and change, the Tribunal was able to demonstrate agility and flexibility, and the credit goes to all my colleagues.

This ability to adapt was key because one of the determining factors in the Tribunal's new reality was the expansion of its jurisdiction with the coming into force in recent years of the new legislative framework under the *Safe Food for Canadians Act* and its regulations. This was in addition to

the new legislative amendments under the *Health of Animals Regulations*. An analysis of recently received applications for review has already revealed the complexity of the Tribunal's new mandate. Even so, everything is in place to facilitate the creation of the new body of case law made necessary by these legislative amendments.

In this sense, it seemed particularly important to me to highlight the support received from Minister Bibeau and her entire team for the renewal of the Tribunal members' mandates. A stable team ensures that the corporate memory is maintained which is imperative to the Tribunal's success and reputation. It also means that the work carried out by the renewed members over the last three years to acquire new skills will pay off. The work pace that was reached over the years will enable the Tribunal to adequately manage the expected growth in terms of the volume and complexity of applications for review, without generating a new backlog.

Personally, I feel that an assessment is necessary after five years in office. There were many accomplishments during my first term, and they all bear the hallmarks of my aspiration to ensure better access to justice for Canadians. It is from this perspective that a new guide for unrepresented parties came about over the past year. It is intended to be a true reflection of the work carried out by our team to facilitate the review process for the parties. The new procedures established have, among other things, helped improve the efficiency of the Tribunal's operations, and I am particularly proud of the significant decrease in the time it takes to process an application for review. Also, more than ever, a formal governance structure fosters cordial and productive exchanges between the members and the Tribunal's entire team, thus ensuring greater coherence in decisions rendered.

This progress has enabled the Tribunal to exceed all the productivity objectives set for the most recent fiscal year. The

Tribunal has all the tools at its disposal to meet the quarterly performance objectives that have been set for the coming year in order to become even more efficient. Deploying a case management system specifically designed to meet the Tribunal's needs will support the modernization process that has already begun.

In short, all the pieces are in place to provide increasingly fair and expeditious service to Canadians. The future is promising, and a new era is taking shape in a context of growth.



Mr. Luc Bélanger

Chairperson
Canada Agricultural
Review Tribunal

1 ABOUT THE *TRIBUNAL*

OUR COMMITMENT TO CANADIANS

Mission

The Tribunal seeks to foster better access to justice in the exercise of its administrative independence. The Tribunal safeguards the fairness, reliability and integrity of the agriculture and agri-food administrative monetary penalty regime to protect public health, animal welfare and plant life.

Vision

The Tribunal, through its modern and innovative practices, offers the Canadian public an impartial, independent, fair and expeditious review of the validity of administrative monetary penalties.

Objectives

The Tribunal is embarked on a process of modernization with the objective to leverage new technologies to exercise its agriculture and agri-food expertise, thus distinguishing itself as an innovative and dynamic administrative tribunal.

THE TRIBUNAL'S VALUES

- Impartiality
- Independence
- Competence
- Expertise
- Service
- Respect
- Integrity
- Transparency

TRIBUNAL JURISDICTION AND MANDATE

The Tribunal is a federal quasi-judicial administrative tribunal and has exclusive jurisdiction to determine all matters relating to the validity of administrative monetary penalties imposed for violations in the agriculture and agri-food sector. The process begins upon receiving a request for review and ends once the Tribunal makes a decision.

The Tribunal falls within the Department of Agriculture and Agri-Food Canada's portfolio and is composed of four members, nominated by the Governor in Council, and whose decision-making role is achieved independently. The Chairperson is also responsible for liaising with the Administrative Tribunals Support Service of Canada to ensure that the Tribunal is provided with the administrative support necessary to fulfil its legislative mandate.

In January 2019, the Tribunal's jurisdiction was significantly expanded with the coming into force of the *Safe Food for Canadians Act* and its *Regulations*, which apply to **all food products**. With these changes, the Tribunal now adjudicates cases related to more than 320 new administrative monetary penalties created to improve Canada's food safety monitoring systems.

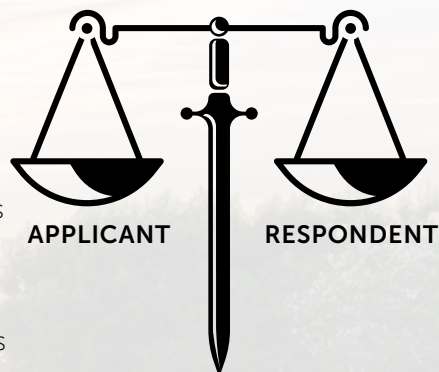
In February 2020, the coming into force of some amendments to Part XII of the *Health of Animals Regulations* also added 81 new administrative monetary penalties under the Tribunal's jurisdiction. These legislative changes aim to improve animal welfare and reduce transport-related suffering during loading, confinement and unloading.

As a result of its new jurisdiction, the Tribunal will deal with complex legal issues including:

- Trade
- Licensing regimes
- Preventive control measures
- Traceability
- Food fraud
- Packaging
- Labelling
- Organic products
- Animal welfare

CANADA AGRICULTURAL REVIEW TRIBUNAL

- Travellers
- Breeders
- Farmers
- Producers
- Transporters
- Slaughterhouses
- Importers
- Exporters
- Food processors



- Canadian Food Inspection Agency (CFIA)
- Canada Border Services Agency (CBSA)
- Pest Management Regulatory Agency (PMRA)
- Minister of Agriculture and Agri-Food
- Minister of Health
- Minister of Public Safety and Emergency Preparedness

NEW LEGISLATIVE FRAMEWORK FOR FOOD SAFETY AND ITS IMPACTS ON THE TRIBUNAL'S WORK

Objectives

The new legislative framework is intended to better protect consumers, promote public health, and strengthen Canada's food system. To that end, the Canadian Food Inspection Agency (Agency) has been assigned new powers.

Description of the new legislation

The legislative framework was revised in January 2019 with the first phase of the coming into force of the *Safe Food for Canadians Act* (SFC Act) and its regulations, the *Safe Food for Canadians Regulations* (SFC Regulations). The SFC Regulations were then fully implemented in July 2020. Despite the COVID-19 pandemic and its impacts on Canada's agriculture and agri-food sector, the interim measures set out in the SFC Regulations have not been extended.

The legislative overhaul granted the Agency more stringent oversight and enforcement powers. In fact, the SFC Act no longer limits the oversight power to nine foods: dairy products, fish and seafood, fresh fruits and vegetables, honey,

maple products, meat, processed eggs, processed fruits and vegetables, and shell eggs. The Agency now has jurisdiction over **all food products**.

Focusing on results, the SFC Act and SFC Regulations introduce three key aspects under food safety: the creation of a licensing regime, tougher requirements for traceability, and the development of preventive controls plans.

Powers of the Agency

- Issue written warnings
- Issue administrative monetary penalties
- Limit the movement of non-compliant products
- Order the destruction of non-compliant products
- Order the removal from Canada of non-compliant products
- Require regulated persons to be equipped with traceability systems
- Order the production of documents
- Issue or revoke licences
- Order the recall of products

Impacts on Tribunal's work

With 320 newly created administrative monetary penalties, and because the legislative framework now applies to **all food products**, a significantly higher number of applications for review is expected, as well as cases that are increasingly complex. In fact, 72% of those new violations will result in the system's most severe administrative monetary penalties for offenders. With the coming into force of this new legislative framework, the Tribunal has exclusive jurisdiction for hearing and deciding all matters under the agriculture and agri-food administrative monetary penalties system.

These significant changes to the legal framework mean that the Tribunal must expand its reach and expertise. It will now hear and decide matters pertaining to trade, preventive control measures, traceability, recognition of foreign systems, food fraud involving packaging and labelling, as well as organic products, to mention only a few.

As an example, food fraud deceives consumers and poses a health risk for Canadians. To tackle the issue, the Agency inspects, samples and tests

commodities that may be the most susceptible to being misrepresented, such as honey, oils, fish and spices. Their food fraud annual report 2020 to 2021 provides details about their surveillance function, and highlights the importance being placed by the Agency on this matter. In this respect, the Tribunal now has jurisdiction to hear requests for review about any category of food fraud, whether it is related to the fishing industry or any other Canadian agriculture or agri-food industry.

These legislative changes will without a doubt significantly impact the Tribunal's workload. The Tribunal will continue to adapt to provide Canadians with impartial, independent, fair and expeditious processing of the requests for review.

138 new violations under the *SFC Act*

Minor	66
Serious	22
Very serious	50

182 new violations under the *SFC Regulations*

Minor	29
Serious	73
Very serious	80



NEW REGULATORY FRAMEWORK FOR ANIMAL HEALTH

AND ITS IMPACTS ON THE TRIBUNAL'S WORK

Objectives

The overhaul of Part XII of the *Health of Animals Regulations (HA Regulations)* that came into force in February 2020 introduced various changes for players in the field of agriculture and agri-food. The strictness of the new administrative monetary penalties aims at increasing compliance by industry stakeholders. This will contribute to animal welfare by preventing them from suffering during transport. The new provisions reflect current industry practices more accurately and align better with the regulatory requirements in other countries with agricultural economies comparable to ours.

Description of the new regulations

The most significant change is the introduction of a number of definitions within the *HA Regulations* themselves, rather than through a policy that would be created by the Canadian Food Inspection Agency (Agency). For example, the former section 138 defined the standards for describing an animal that needs special attention, including

pregnant, sick, and unfit animals. A new definition that clearly lists the conditions for describing an animal as unfit is now found in section 136 of the *HA Regulations*. This definition establishes the concepts that are essential to understanding section 139, which states that it is prohibited to load, confine or transport animals deemed unfit. Since each of these concepts is also defined right in the *HA Regulations*, transporters' obligations are now clearer and more easily accessible.

In addition, the concept of "undue suffering," as interpreted by the Federal Court of Appeal in *Porcherie des Cèdres*,¹ has been removed from the legislation. Instead, the definition of "unfit" in paragraphs 136(1) (a) to (v) lists infirmities, illnesses, or injuries, in addition to paragraph (w), which specifies that an animal that "exhibits any other signs of infirmity, illness, injury or of a condition that indicates that it cannot be transported without suffering" is considered unfit. This definition repeats in slightly different terms the

1 *Canada (Attorney General) v. Porcherie des Cèdres Inc.*, 2005 FCA 59.

former paragraph 138(2)(a), but covers a broader range of animals and makes the obligation of not transporting a suffering animal clearer and easier to understand for workers and businesses.

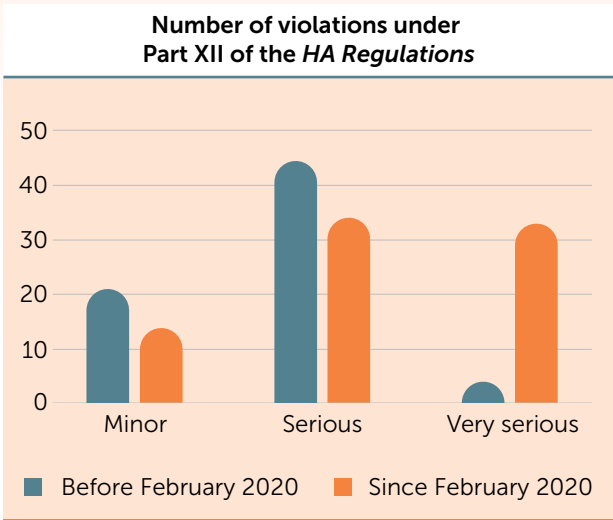
Section 140 of the *HA Regulations* also clearly indicates the conditions that must be met for being able to transport a compromised animal. These standards are listed in the *HA Regulations* and no longer appear in a separate policy.

Impacts on the Tribunal

Introducing clear definitions that apply, inter alia, to the concepts of an “unfit” or “compromised” animal established a transparent and explicit framework. This mitigates any potential legal uncertainty arising from divergent interpretations of the regulations.

The overhaul of Part XII of the *HA Regulations* has resulted in new challenges that the Tribunal is now focusing on addressing. These include reviewing

the case law applicable to Tribunal’s cases, an improvement in the ability to handle a higher volume of applications for review, and increasing the knowledge of the Tribunal’s members and staff about the transporting and care of animals. Each of these three aspects requires the ongoing contribution of the Tribunal’s members.



2 TRIBUNAL ACTIVITES

MANDATORY CASE MANAGEMENT CONFERENCES

To ensure a fair, expeditious review process, the Tribunal relies on implementing and following best practices. A cornerstone of this strategy is holding a mandatory case management conference (CMC) for every case that involves an oral hearing.

Held between the presiding member, the parties, and their representatives, a CMC promotes effective management of the case. It familiarizes the parties with the nature of the administrative monetary penalty system, the legal framework for the alleged violation, and the procedure to be followed during Tribunal's hearing. Its establishment over the last four years has contributed to the increase in the number of notices of violation withdrawn, waivers and settlement agreements.

At the end of the CMC, the presiding member usually issues an order reflecting the results of the conference that outlines how the case will proceed. Through that order, parties are required

to have a *joint hearing plan*, a *list of witnesses* and a detailed list of all the admissible evidence. The primary intent of this exercise is to ensure that the case progresses expeditiously. A *joint hearing plan* also helps to establish a daily schedule, thereby ensuring the least costly process possible, and the most efficient for parties. This approach ensures better control over the hearing process and avoids complications likely to result in prejudice to the parties.

In more complex cases, trends show that holding multiple CMCs is necessary to resolve preliminary motions and to keep to the hearing timetable previously determined by the presiding member.

Holding a CMC is essential to achieve a fair, expeditious process at the lowest possible cost for the parties. It is a fundamental tool for maintaining the presiding member's impartiality and discouraging frivolous claims or the abuse of process.

Results from the mandatory case management conferences

	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Mandatory case management conferences	15	13	11	17	26
Orders	11	21	24	13	20
Notices of violation withdrawn	5	10	4	6	1
Requests for review abandoned	16	11	5	0	1



SETTLEMENT AGREEMENTS

Of all strategies implemented, decisions confirming a settlement agreement between parties have proven their effectiveness. In such cases, the Tribunal exercises not only its exclusive jurisdiction to determine all matters relating to the validity of imposed administrative monetary penalties, but also its vested powers under the doctrine of necessary implication,² as a court of record.

Under this doctrine, the Tribunal has certain powers to achieve the purpose of the statutory administrative monetary penalty regime for agriculture and agri-food. These procedural powers are available to the Tribunal even if they are not explicitly set out in its enabling legislation. The objective pursued remains the same: ensure a sound and expeditious administration of justice.

In view of the significant increase in the number of violations under the Tribunal’s jurisdiction since 2019,³ efficiency in case management must remain a priority. The Tribunal has exercised its jurisdiction by using the doctrine of necessary implication increasingly since 2018. A notable example is the *Atkinson*⁴ decision where the Tribunal found that it was within its jurisdiction to replace a notice of violation with a penalty by a notice of violation with a warning, in exchange for an admission of responsibility. The Tribunal determined by practical necessity that the settlement agreement was the most appropriate remedy for the parties.

By exercising its jurisdiction by using the doctrine of necessary implication, the Tribunal continues to achieve the most just and equitable results for the parties.

2 Common law doctrine referring to implications that are so highly probable that drawing any other inference from the facts would appear unreasonable.
3 Entry into force of the *Safe Food for Canadians Act* and its *Regulations*.
4 *Atkinson v. Canada (Minister of Public Safety and Emergency Preparedness)*, 2018 CART 3.

Number of Decisions Confirming a Settlement Agreement

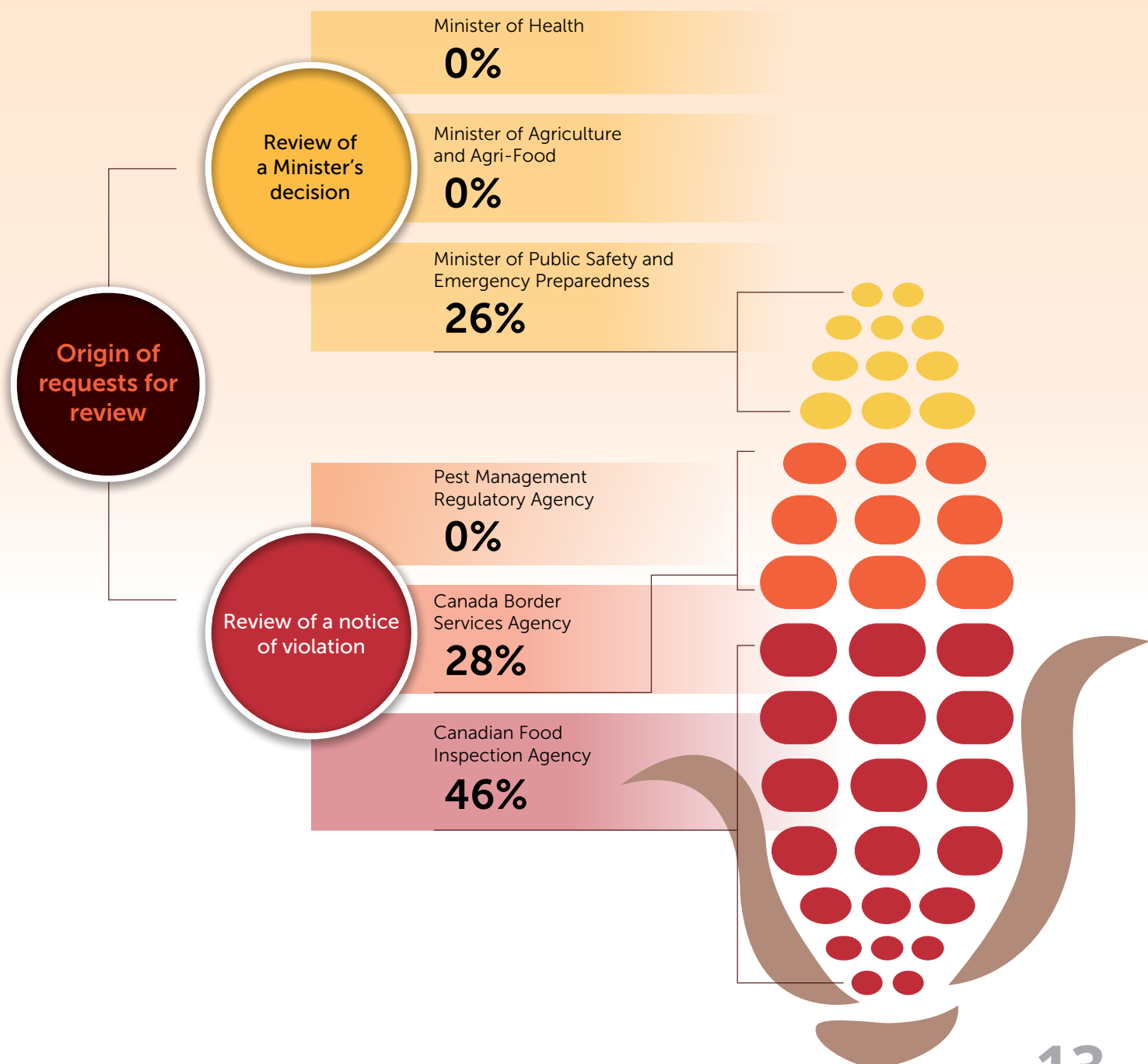
	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Minister of Public Safety and Emergency Preparedness	0	4	0	7	3
Canada Border Services Agency	0	2	7	9	1
Canadian Food Inspection Agency	1	0	1	0	0

REQUEST FOR REVIEW PROCESS SUMMARY IN 2021-2022

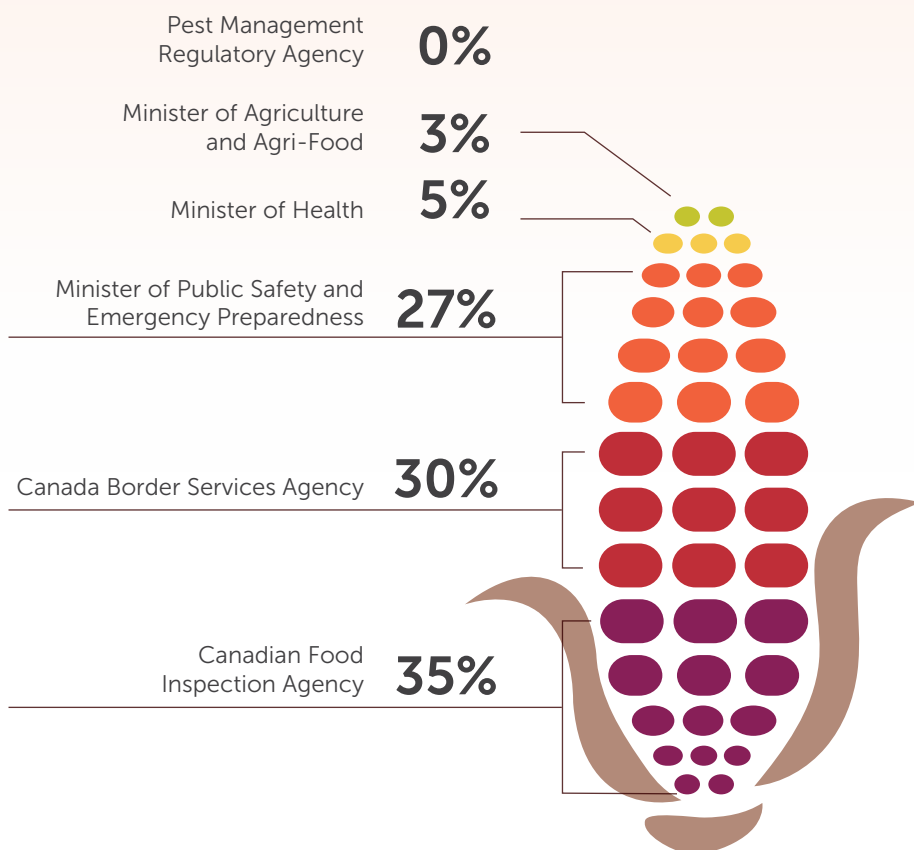
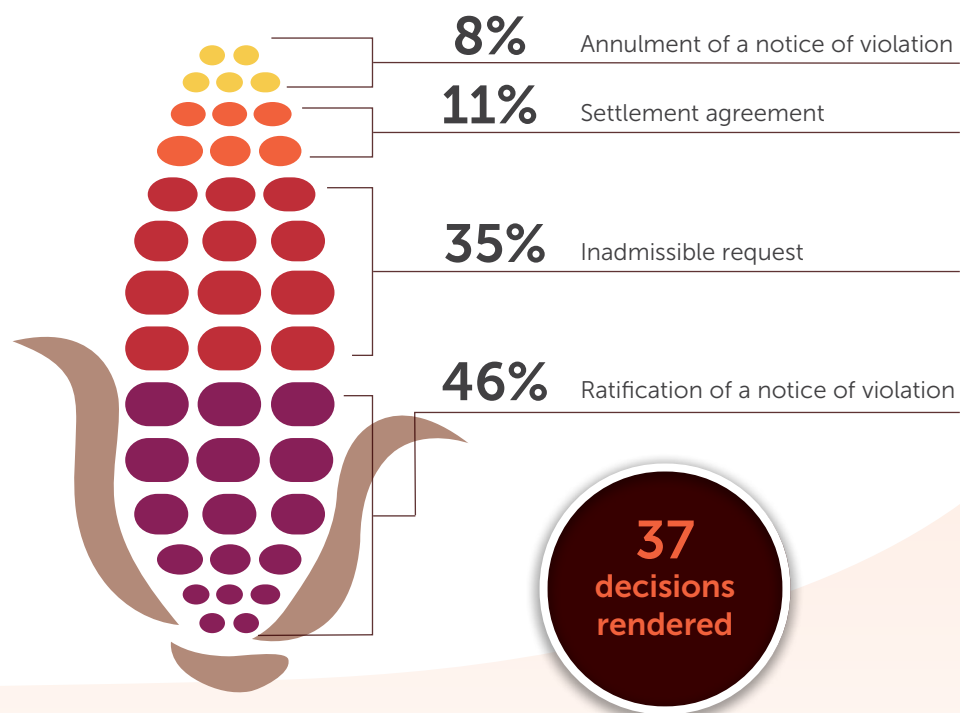
Tribunal Workload	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Requests for review	30	46	44	21	39
Withdrawals	21	21	9	6	1
Decisions	9	20	26	33	37
Hearings	8	6	6	6	13
Files proceeding by written submissions	17	7	13	7	9
Mandatory case management conferences	15	13	11	17	26
Orders	11	21	24	13	20
Settlement agreements	1	6	8	16	4
Active files	93	70	95	38	39

Actions by the Federal Court of Appeal	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Judicial Reviews	1	0	1	2	1

OVERVIEW OF REQUESTS FOR REVIEW IN 2021-2022



OVERVIEW OF DECISIONS RENDERED IN 2021-2022



TRIBUNAL DECISION SUMMARY OF ACHEAMPONG⁵ CASE

The first opportunity to raise a complaint about language difficulties or a lack of interpretation in an administrative proceeding is in a request for review of a Notice of Violation to the Minister or the Tribunal, not during an inspection by a Border services officer.

Ms. Acheampong arrived in Canada from Ghana and declared she was not bringing any food, plant or animal products into the country. A search revealed that she had six (6) kg of dried cow meat and two (2) kg of taro root with soil residue in her luggage. Ms. Acheampong received a notice of violation with a \$1300 penalty for failing to declare the dried cow meat.⁶

Ms. Acheampong argued that she was not fluent in English, that she did not have an interpreter during the search of her luggage and that she did not understand what transpired during the search. The Canada Border Services Agency argued that if Ms. Acheampong's lack of understanding of English was a genuine issue, she should have raised it at the first opportunity, during primary or secondary (luggage) inspection. The Agency cited the Federal Court of Appeal decision in *Mohammadian*⁷ to support the proposition that "parties involved in an administrative process" should raise a complaint about interpretation at the first opportunity.

The Tribunal noted that the *Mohammadian* case applies to complaints about interpretation in "administrative proceedings" (emphasis added) not an administrative process, based on the right to interpretation under section 14 of the *Canadian Chart of Rights and Freedoms*. The Tribunal observed that the interaction between a Border services officer and a traveller is not an administrative proceeding, though it might be characterized as an administrative process. The Tribunal concluded that the first opportunity to make a complaint about lack of interpretation in an administrative proceeding is in the first request for review either to the Minister or the Tribunal.

The evidence in the case did not support a finding that Ms. Acheampong's lack of understanding of English amounted to complete inability to appreciate the nature and consequences of her actions and did not excuse her responsibility for committing the violation. Her explanation that she did not know that cow meat must be declared is a defense of mistake of fact, which is explicitly excluded by legislation.⁸ Ms. Acheampong committed the violation and must pay the penalty.

5 *Acheampong v. Canada Border Services Agency*, 2022 CART 06.

6 Contrary to subsection 16(1) of the *Health of Animals Act*.

7 *Mohammadian v. Canada (Minister of Citizenship and Immigration)*, 2001 FCA 191.

8 Paragraph 18(1)(b) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

TRIBUNAL DECISION SUMMARY OF *HARWIL*⁹ CASE

The issue in this case was whether Harwil Farms Mobile Feeds Ltd. (Harwil) was liable for the violation indicated in the Notice of Violation (Notice) issued with a \$6600 penalty by the Canadian Food Inspection Agency (Agency). The Agency indicted Harwil for transporting two hogs that could not have been transported without undue suffering during the expected journey. The Agency inspector issued the Notice after observing one pig in the load with a severe rectal prolapse and another with a fractured femur.

The *Health of Animals Act (HA Act)* and *Regulations (HA Regulation)* set out requirements to ensure humane treatment of animals during transportation. Paragraph 138(2)(a) of the *HA Regulation* prohibits any person from transporting an animal with an injury or infirmity that would cause undue suffering during the expected journey. In this case, the inspectors relied on the *Compromised Animals Policy (Policy)* published by the Agency to establish that the hogs suffered unduly during transport. While the *Policy* is not binding on the Tribunal, it serves as a guide to the industry.

In *Doyon*,¹⁰ the Federal Court of Appeal (FCA) asserted that violations under the administrative monetary penalty system should be analyzed according to their essential elements, each of which must be proven on a balance of probabilities before an applicant can be considered at fault. In order for a person to be found liable for a violation of paragraph 138(2)(a) of the *HA Regulations*, the Agency must establish seven essential elements. The FCA clearly stated that decision-makers must rely on evidence-based facts and not mere conjecture, let alone speculation, hunches, impressions or hearsay.

In this case, the evidence gathered by the Agency's veterinarian prior to the issuance of the Notice confirmed that the injury to the hog with a broken femur was not present at the time of loading. Under paragraph 138(2) a) of the *HA Regulation*, Harwil cannot be held liable if upon loading there are no conditions which could lead to undue suffering during transport. For Harwil to be considered at fault, the Agency therefore had to establish that the hog with a rectal prolapse suffered unduly during transport.

9 *Harwil Farms Mobile Feeds Ltd. v. Canadian Food Inspection Agency*, 2022 CART 08.

10 *Doyon v. Canada (Attorney General)*, 2009 CAF 152.

The Tribunal had the benefit of having the expert opinion of Dr. Suzanne Burlatschenko, a veterinarian and professor with specialty consultative services in swine health and production. She reviewed the evidence and questioned the findings in the Necropsy Report prepared by Agency's veterinarian highlighting that the animal was not dissected, and no tissue analysis was performed. In addition, Dr. Burlatschenko expressed her opinion that the hog with a rectal prolapse did not display behavioural signals which could be associated with pain or discomfort.

The testimony of the Agency's veterinarian confirmed Dr. Burlatschenko's opinion by explaining that there was no need to undertake further investigation and complete a full necropsy

of the hog once the condition was clinically identified. The *Policy* states that animals with a rectal prolapse are considered compromised and that transporting them without specific provisions leads to undue suffering. Let us reiterate that the *Policy* may serve as a guide to the industry, but it cannot be relied on to neglect the Agency's obligation to adduce evidence to prove a violation occurred.¹¹

In this case, the testimony of the Agency's veterinarian and the evidence he relied on to establish that the hog with the rectal prolapse suffered unduly during the expected journey was marred by speculations and was not based on facts. Accordingly, the Tribunal concluded that Harwil was not liable.

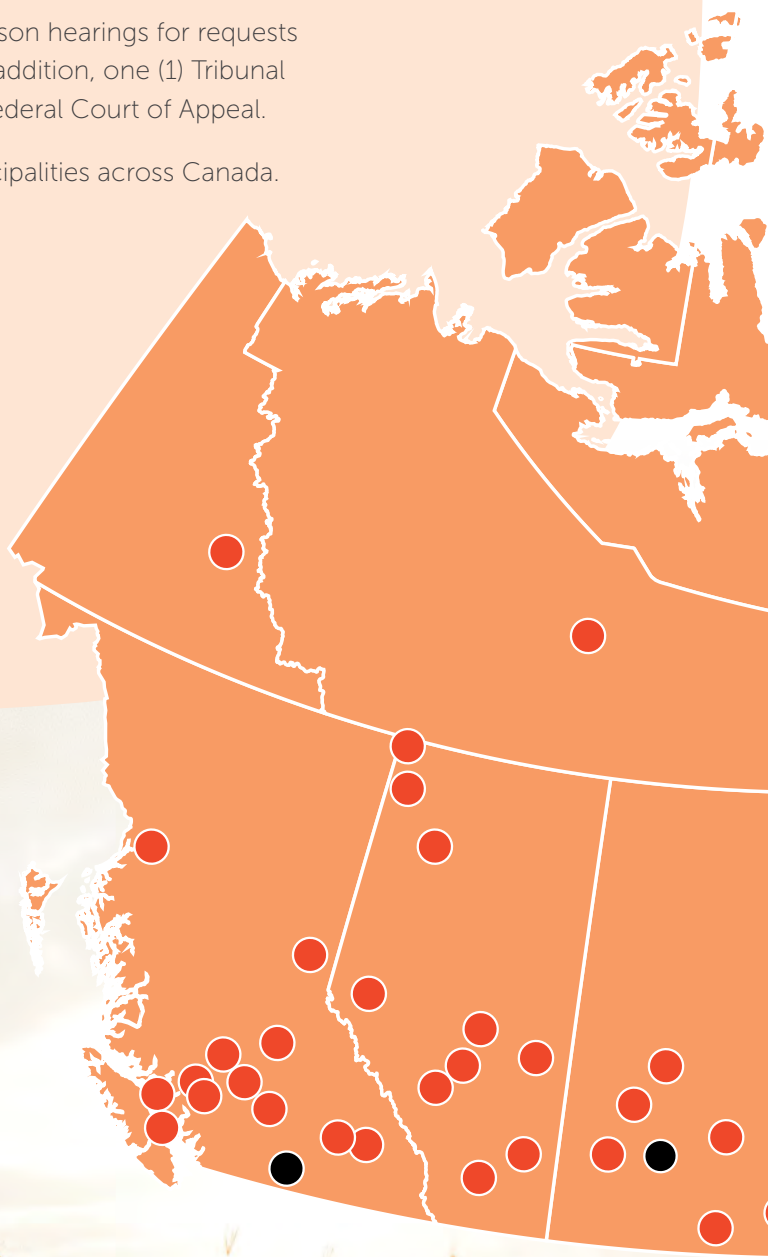
11 Recent amendments to part XII of the *Health of Animals Regulations* aim at avoiding this type of problematic situation in the future.

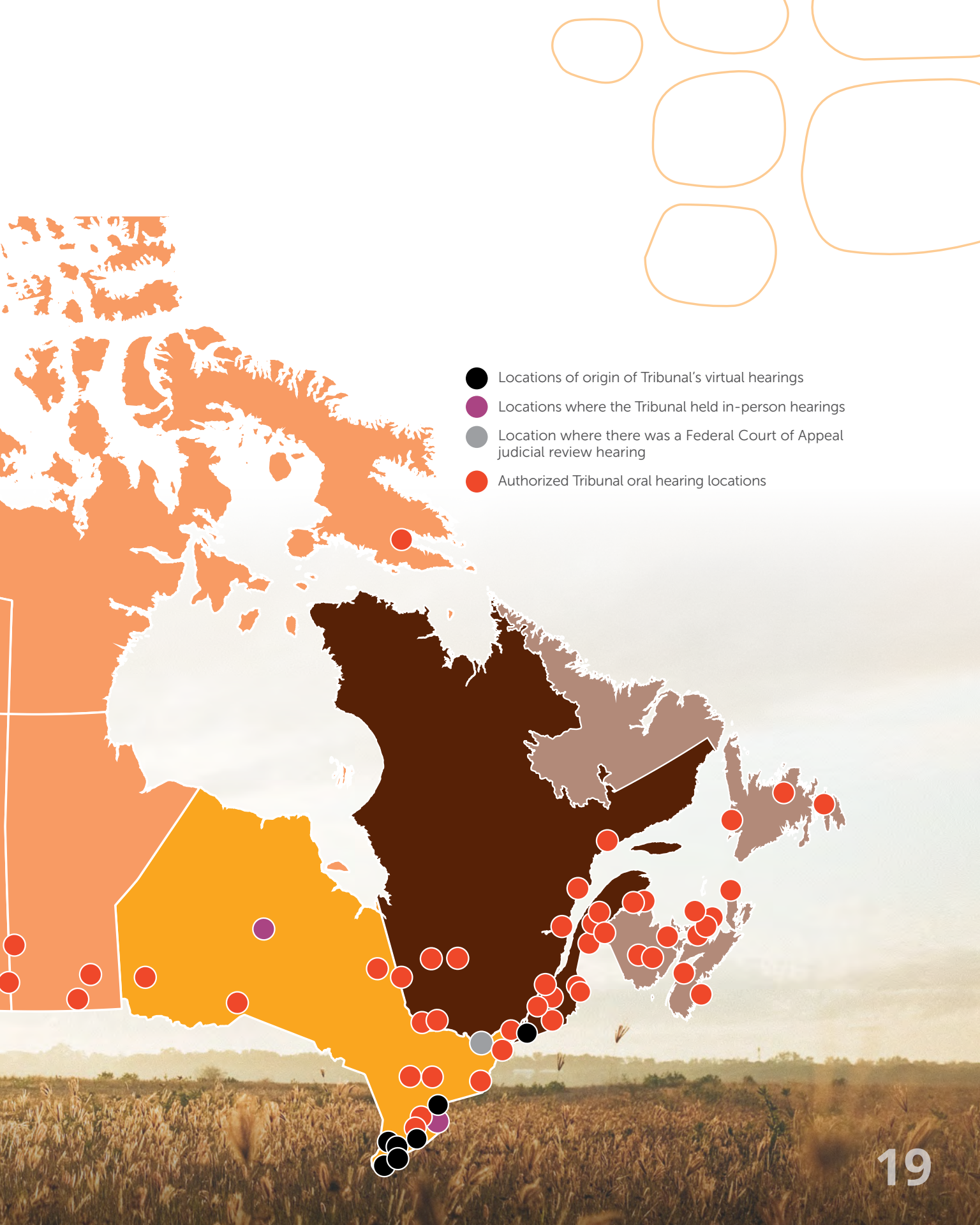


MAP OF THE TRIBUNAL ACTIVITIES IN 2021-2022

The tribunal held eleven (11) virtual and two (2) in-person hearings for requests originating from nine (9) different Canadian cities. In addition, one (1) Tribunal decision was the subject of a judicial review by the Federal Court of Appeal.

The Tribunal can hold in person hearings in 96 municipalities across Canada.





- Locations of origin of Tribunal's virtual hearings
- Locations where the Tribunal held in-person hearings
- Location where there was a Federal Court of Appeal judicial review hearing
- Authorized Tribunal oral hearing locations

3 TRIBUNAL'S *STRATEGIC PLAN*

STRATEGIC OBJECTIVES

Impartial, fair and expeditious access to justice is one of the pillars of a democratic society. To support this access and the judicious delivery of services, three conditions are essential:

- Modern methods of processing request for review and communicating that give applicants the choice of means to interact with government institutions
- Competent institutions that are capable of achieving their own goals and their mandates
- Effective management of resources and activities

In 2022-2023, the Tribunal commits to continue to work in the best interests of Canadians to achieve the following **four strategic objectives**:

1. Continue efforts to facilitate access to justice
2. Modernize the technological tools available to the Tribunal and applicants
3. Learn new skills
4. Implement productivity and performance indicators to improve administrative efficiency

TRIBUNAL'S ACHIEVEMENTS

Since 2018–2019, the followings activities were carried out to support the four Tribunal's strategic objectives:

1. Facilitate access to justice

Canadians expects federal institutions to be transparent, effective and easily accessible. The Tribunal has implemented the following strategies over the past five years to meet these expectations:

- A redesign of practice notes in plain language so they are more accessible to the public and all parties involved in cases
- Conducting virtual hearings, which minimize travel time and costs for all parties
- The creation of a guide for self-represented persons
- Writing decisions in clear, simple language

2. Establish a governance structure

The Tribunal has a strong governance structure that can respond to the increased complexity of cases arising from the coming into force of new legislation and regulations. The purpose of this structure is to ensure a fair and expeditious review process that incorporates best practices, while protecting the members' independence. Consequently, the following elements have been developed:

- Code of Ethics for Members
- Decision Review Committee
- Reasons Review Policy
- Mandatory case management conferences

3. Modernize operations

From an operations perspective, the Tribunal has focused on reducing and eliminating the backlog of requests for review. Virtual hearings have enabled us to maintain our pace despite the pandemic.

In addition, the implementation in 2021-2022 of a new case management system supports the Tribunal's vision with innovative and modern practices.





4 TRIBUNAL'S **BUSINESS PLAN**

The key objectives pursued by the Tribunal for the 2022-2023 fiscal year are to be more effective and efficient in order to reduce the processing time for requests for review. The performance framework and measurements implemented during the 2021-2022 fiscal year will directly help providing a better access to justice.

To complement these objectives, the Tribunal intends to initiate a broad consultation with stakeholders to identify the required legislative amendments to *the Rules of the Tribunal (Canada Agricultural Review Tribunal)*.

ACCESS TO JUSTICE

The activities scheduled for the next fiscal year include establishing and strengthening the basis for communication with the public. Once the tools are in place, the Tribunal will ensure that they result in an actual reduction in the time needed to reach a decision.

Activities

2022-2023

- Promote electronic communications through a secure module to exchange electronic documents
- Hold virtual hearings
- Reduce the number of days to confirm eligibility of a request for review
- Reducing the number of days to publish decisions
- Undertake a public consultation to amend the Rules of the *Tribunal (Canada Agricultural Review Tribunal)*

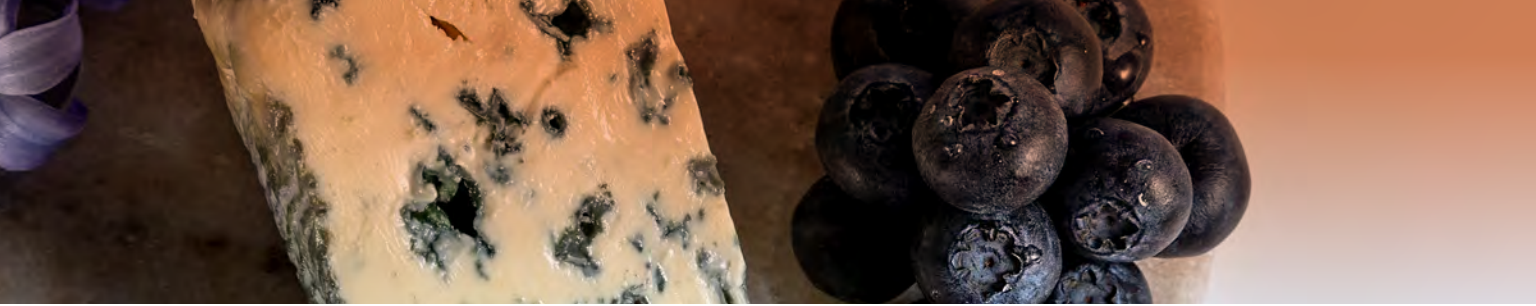
TECHNOLOGICAL MODERNIZATION

Work has been underway since 2020 to implement an electronic case management system that will allow new applications for review to be uploaded directly into the system. Storing case files and decisions in dedicated servers will allow members and Tribunal staff to do their work, regardless of location and time. This tool will facilitate a more efficient management of all the evidence during hearings.

Activities

2022-2023

- Roll out the secure module to exchange electronic documents for requests for review
- Implement a secure and shared access to electronic documents for all parties during hearings



ACQUIRING NEW SKILLS

It will be essential to develop case law and standardize members' practices to ensure consistency in the Tribunal's approach. With over 400 new administrative monetary penalties without identified constituent elements, considerable research will be needed to analyze decisions for similar violations and whether those decisions apply to the Tribunal's work as of the 2022-2023 fiscal year. It is also important to develop an institutional memory that will remain within the Tribunal.

Activities

2022-2023

- Standardize the approach to administering cases, managing legal questions and conducting hearings without undermining members' independence
- Publish a guide about the public access to open court principle
- Training Tribunal members and staff
- Continue writing decisions and practices defining the essential element of the new violations

ADOPTION OF PRODUCTIVITY AND PERFORMANCE METRICS TO IMPROVE ADMINISTRATIVE EFFICIENCY

The Tribunal will develop methods to comprehensively measure the Tribunal's performance and efficiency in the perspective of continuous improvement. The first step is to identify which area(s) in the Tribunal's decision-making process or work methods are the least useful or cost-effective from the applicant's perspective. Tangible improvements are quantifiable since fiscal year 2021-2022.

Activities

2022-2023

- Reduce the time between request for review submissions and publication of the Tribunal's final decision
- Measure performance indicators and service standards

5 ABOUT THE *TRIBUNAL MEMBERS*



Luc Bélanger

(LL.L.) — Chairperson and Full-Time Member

Mr. Bélanger has been the full-time Chairperson of the Tribunal since July 2017. Previously, he was a lawyer with the Department of Justice Canada. From 2005 to 2011 he led the Agriculture and Agri-Food Canada legal services team in the class-action suits against tobacco manufacturers. During his career, Mr. Bélanger has developed a strong interest in incorporating new technologies into the practice of law. From 2012 to 2014, he helped establish the National eDiscovery and Litigation Support Services Team in the Department of Justice Canada's Litigation Branch. Mr. Bélanger chaired the Council of Federal Tribunals Chair constituted of 28 federal administrative tribunals from January 2020 to January 2022.



Patricia Farnese

(B.A.(hons.), LL.B., LL.M.) — Part-Time Member

Ms. Farnese is a lawyer and Law Professor at the University of Saskatchewan. In addition to her undergraduate degrees, Ms. Farnese holds a Masters of Laws degree from the University of Arkansas in Agricultural Law. Her published research critiques both the design and implementation of agri-environmental policies, including policies intended to promote the wise use of wetlands, animal health and infectious diseases. Professor Farnese is a former Vice-Chair of the Practitioner's Staff Appeals Tribunal in Saskatchewan.



Marthanne Robson

(LL.B.) — Part-Time Member

Ms. Robson has been a part-time member of the Tribunal since December 2017. Ms. Robson has over 30 years of experience as a lawyer, mediator, adjudicator and ombudsperson. She has particular expertise in agriculture and agri-food regulation, administrative law, conflict resolution, human rights, adjudication and investigation. From 2006 to 2016 she was Vice-Chair of the Ontario Agriculture, Food and Rural Affairs Appeal Tribunal. She is a member of the Law Society of Ontario.



Geneviève Parent

(LL.B., LL.M., LL.D.) — Part-Time Member

Ms. Parent, Doctor of Laws and Full Professor at the Faculty of Law at Université Laval, has been a part-time member of the Tribunal since August 2017. For over 20 years, her research has focused on national and international legal instruments for ensuring food diversity, the impact of international law on Canadian and Quebec agri-food legislation, and on the search for greater consistency between international economic law and other domains of law to promote sustainable global food security.

ABOUT THE **TRIBUNAL STAFF**

TRIBUNAL SECRETARIAT

Fabien Lengellé (LL.L., M.P.A., D.E.S.S.) — Executive Director

Fabien Lengellé is the Executive Director of the Integrated Secretariat for the Administrative Tribunals Support Service of Canada. This unit offers support services to four administrative tribunals, including the Canada Agricultural Review Tribunal. He has been a public servant since 1991.

Jean-François Cham (LL.L., J.D.) — Legal Counsel

Jean-François Cham began working as Legal Counsel to the Tribunal in April of 2019. Since joining the Department of Justice Canada in 2008, Jean-François has gained a variety of work experience including litigation in federal administrative tribunals and federal courts.

Mario Gosselin (LL.L.) — Legal Counsel

Mario Gosselin has been a Legal Counsel for the Tribunal since January 2021. Previously as a Policy Officer at Employment and Social Development Canada he worked on labour standards' regulatory packages. He also gained experience with different judicial bodies while working in the private sector before beginning a new public service career.

Jayson Philippe (General Certificate of Law) — Paralegal

Jayson Philippe joined the Tribunal in June 2021 as part of a secondment from the Department of Justice. He joined Justice Canada in 2006 and has over 16 years' experience as paralegal in the federal public service.

Frédéric Lapointe
(B.A.) — Registrar

Frédéric Lapointe began working as Registrar of the Tribunal in December 2020. He is also the Registrar of the Environmental Protection Tribunal of Canada. He holds a Bachelor's degree in Communications and has worked for several administrative tribunals over the past 10 years.

Vicky White
(LL.L., LL.M.) — Senior Registry Officer

Vicky White joined the Tribunal in July 2020, after many years in private practice. She is currently a J.D. candidate at the University of Ottawa's National Program.

Mylène Roux
**(B.Sc. (biomedical sciences),
B.Sc. (nutrition)) — Executive Assistant**

Mylène Roux joined the Tribunal in July 2020, after many years working as a registered dietitian in the private sector. She is also a final-year student in a Masters degree of Sustainable Food and Natural Resources at the Centre for Alternative Technology, in Wales.

Steven Paolitto
**(B.Sc.(Agr.Env.Sc.)) —
University of Ottawa Student Employee**

Steven Paolitto joined the Tribunal in May 2020 to complete a faculty-accredited legal internship. He is in his final year of the accelerated 3-year Canadian Law Program (J.D., LL.L.), during which he also worked as a junior policy analyst at Global Affairs Canada's Food Security and Environment Directorate. In addition to his experience in farm financing, he has a marked interest in litigation, competition, international trade and intellectual property law.



TRIBUNAL'S BUDGET

	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Personnel					
Salaries and benefits	462,992	655,099	950,240	787,400	1,008,910
Goods and services					
Hearings and travel	18,312	36,016	71,144	12,140	26,370
Ownership, rental and maintenance of equipment	8,061	955	5,289	4,300	11,945
Mailing, courier and telecommunication costs	3,495	6,455	8,918	1,000	4,216
Publications, printing and outreach	2,413	14,834	23,272	11,050	10,200
Training, meetings and conferences	7,010	4,123	21,594	3,210	2,485
Professional and other contracted services	37,130	41,400	30,060	51,620	62,333
Material, supplies and various related expenses	15,608	27,444	3,261	12,330	2,721
Total	555,020	786,326	1,113,778	883,050	1,129,180



The Tribunal safeguards the fairness, reliability and integrity of the agriculture and agri-food administrative monetary penalty regime to protect public health, animal welfare and plant life.



TRIBUNAL CONTACT INFORMATION

STAY CONNECTED!



By telephone
613-943-6405



By fax
613-943-6429



By mail
Canada Agricultural Review Tribunal
344 Slater Street, 15th Floor, Suite 300
Ottawa, Ontario, K1A 0B7



By email
infotribunal@cart-crac.gc.ca



Website
<http://cart-crac.gc.ca>



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