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Access to Information Act and Privacy Act

1999-2000 Annual Report to Parliament

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INDUSTRY CANADA

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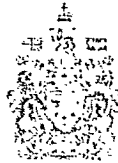
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Minister of Industry



Ministre de l'Industrie

Ottawa, Canada K1A 0H5

The Honourable L'honorable
John Manley P.C., M.P. c.p., député

Her Excellency the Right Honourable Adrienne Clarkson, P.C., C.C., C.M.M., C.D.
Governor General of Canada
Government House
1 Sussex Drive
Ottawa, Ontario
K1A 0A1

Your Excellency:

I have the honour to submit to Your Excellency the Annual Reports on the administration of the *Access to Information Act* and the *Privacy Act* for the period April 1, 1999, to March 31, 2000, in accordance with Section 72 of the legislation. . These reports concern the activities of Industry Canada.

Respectfully submitted,

Canada

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PREFACE

The *Access to Information Act* and the *Privacy Act* (Revised Statutes of Canada, Chapter A-1, 1985) were proclaimed on July 1, 1983.

The *Access to Information Act* gives Canadian citizens and permanent residents a broad right of access to information contained in government records subject to certain specific and limited exceptions. The *Privacy Act* extends to individuals the right of access to information about themselves held by the government, again subject to specific and limited exceptions. The law also protects the individual's privacy by preventing others from having access to personal information and gives individuals substantial control over its collection and use.

Section 72 of the *Access to Information Act* and Section 72 of the *Privacy Act* require that the head of every government institution shall prepare for submission to Parliament an annual report on the administration of the Acts within the institution during each financial year.

These annual reports are intended to describe how Industry Canada administered its responsibilities in the 17th year of operation of the *Access to Information Act* and the *Privacy Act*.

BACKGROUND ON THE DEPARTMENT

To provide a better understanding of the context in which access requests are dealt with, this section presents background information about the Department.

Industry Canada's mandate is to help make Canadians more productive and competitive in the knowledge-based economy and thus improve the quality of life in Canada. Industry Canada will meet this challenge by improving Canada's innovation performance; by making Canada the most connected nation in the world; by building a fair, efficient and competitive marketplace; by improving Canada's position as a preferred location for domestic and foreign investment; and by working with Canadians to increase Canada's share of global trade. Industry Canada focuses its efforts along five strategic objectives that reflect these goals and commitments:

- Innovation
- Connectedness
- Marketplace
- Investment
- Trade

The Department's corporate and management services provide infrastructure and support for the five lines of business. These services are aimed at increasing the efficiency of the Department's service to Canadians.

In all its lines of business and activities, Industry Canada recognizes the crucial importance of science and technology (S&T) as a driver of the knowledge-based economy. The Department promotes S&T in Canada, and encourages its fullest and most effective development and use in the economy.

INTRODUCTION

Organization and Implementation:

The Director of the Information and Privacy Rights Administration (the ATIP Office) has been delegated authority to exercise full powers under the *Access to Information Act* and the *Privacy Act*. The Director is responsible for the development, co-ordination and implementation of effective policies, guidelines and procedures to manage the Department's compliance with these Acts. The administration of the legislation within Industry Canada is also facilitated at the branch and regional office levels. Each organizational sector has a Liaison Officer (who normally reports to an Assistant Deputy Minister, Regional Executive Director, etc.) who coordinates activities and provides guidance on the administrative processes and procedures of the Acts. All formal requests submitted under the Acts are replied to by the ATIP Office in Ottawa. The Director reports to the Assistant Deputy Minister (ADM), Business Law who in turn reports to the Deputy Minister. In addition to the Director, the ADM, Business Law and the Ethics Counsellor are also designated with full powers under both Acts.

The ATIP Office has a complement of seven full time employees comprising one director, five officers, and one support staff, all of whom are dedicated to processing Access and Privacy requests along with related functions. The ATIP staff reflects an appropriate balance between broad ATIP experience and detailed knowledge of the related policies as well as the workings of a large and multifaceted Department.

The ATIP Office is responsible for conducting consultations with other governments and other government departments. The Department also collects, under various legislative authorities or otherwise, an appreciable amount of commercial information in confidence from both national and international companies. In the event of requests for such information, the Department will undertake appropriate notification or consultation procedures with interested parties before disclosing any records. The ATIP Office has on occasion conveyed personal information to federal investigative agencies in keeping with the provisions of the *Privacy Act*.

The ATIP Office also adjudicates on the disposition of access requests; promotes awareness of the legislation to ensure departmental responsiveness to the obligations imposed on the government; monitors and advises on departmental compliance with the Acts, regulations, procedures and policies; acts as spokesperson for the Department in dealings with the Treasury Board Secretariat, the Information and Privacy Commissioners, and other government departments and agencies.

In addition to the management of Access and Privacy requests, the ATIP Office provides advice and guidance to Departmental units on compliance with the legislation as well as briefings on access to information and privacy processes.

The Director is the Departmental point of contact for the registration of Information Collection and Public Opinion Research.

The ATIP Office is responsible for providing a full accounting of the Department's information holdings to the Treasury Board Secretariat and ensures that updates are provided on a timely basis for inclusion in the Info Source publication.

The ATIP Office also responds to approximately 100 requests from the public annually, for documents related to Urea Formaldehyde Foam Insulation (UFFI) and its removal from their homes.

Case Load

In the fiscal year 1999-2000, the Department received 355 access requests and 13 privacy requests, for a total of 368 new requests for information. In addition, the ATIP Office processed 72 consultations from other Government Departments.

All informal requests are dealt with directly by the Sector Branches and therefore are not tracked by the ATIP Office.

In addition to the sharp rise in the total number of requests received (52 percent) over the previous year, there has been a significant increase in the scope of the requests, their complexity and the number of documents captured. The challenge of responding to these more sophisticated and complex requests while maintaining current resource levels and expected service standards resulted in extreme workload with high stress levels. Faced with these challenges, the ATIP personnel demonstrated high levels of positive attitude, dedication and professionalism which resulted in a 47 percent increase in the total number of cases completed over the previous year, while achieving a reduction of 55 percent in complaints received.

Fees

The *Access to Information Act* authorizes fees for certain activities related to the processing of formal requests under the *Act*. In addition to a \$5 application fee, search, preparation and reproduction charges may also apply. The current fee structure is specified in the Access to Information Regulations. No fees are imposed for reviewing records, overhead or shipping costs. Moreover, in accordance with Section 11 of the *Act*, no fees are charged for the first five hours required to search for a record or prepare any part of it for disclosure.

The *Access to Information Act* permits the waiving of fees when deemed to be in the public interest. In accordance with Treasury Board guidelines, the Department has routinely waived fees under \$25. For fees over \$25 the Department examines fee waiver requests on a case-by-case basis. In considering such requests, the Department has taken into account costs in processing each access application and the degree of public benefit to be derived from the release of the accessible information.

As indicated on page 8 of this report, the fees collected by the Department represent 0.8 percent of the legislation's total administration costs.

Part I - Access to Information

Statistical Report — Interpretation and Explanation

Annex A provides a summarized statistical report on the *Access to Information Act* applications dealt with during the period from April 1, 1999 to March 31, 2000. The following provides explanations and interpretations for information contained in this report.

I. Requests under the *Access to Information Act*

Of the 401 requests dealt with during this reporting period, 355 requests (86 percent) were new, while 46 requests (14 percent) were carried forward from the previous year.

II. Disposition of Requests Completed

Of the 401 requests dealt with, 349 requests (87 percent) were completed during the 1999-2000 reporting period. It follows that 52 requests (13 percent) remained to be processed as of March 31, 2000. The completed requests are categorized as follows:

All Disclosed — Of the 349 completed requests, the requesters were provided with total access to the relevant records in 128 cases.

Disclosed in Part — In another 105 instances, the requesters were granted partial access.

The cases in which no access could be provided were mostly attributable to situations beyond the control of the Department (i.e. transferred, unable to process, abandoned by applicant and treated informally — see details below).

Transferred — Of the 349 requests completed, 7 concerned records not under the control of the Department. After initial processing, these requests were transferred to the appropriate government institution in accordance with the *Act*.

Nothing Disclosed (Excluded) — There was 1 request for which information could not be disclosed because all of the information was excluded under the *Act*.

Nothing Disclosed (Exempted) — There were 2 requests for which information could not be disclosed because all of the information was exempted under the *Act*.

Unable to Process — After initial review, the Department was unable to process requests in 63 cases.

Abandoned by Applicant — Of the completed requests, 34 were eventually considered abandoned. Such an action may occur at any stage of request processing.

Treated Informally — In 9 cases, it was determined that the information could be released informally rather than through the formal procedures of the *Act*.

III. Exemptions Invoked

As noted in Annex A, exemptions under Sections 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24 and 26 of the *Access to Information Act* were invoked by the Department. The Annex is intended to show the types of exemptions invoked to deny access. For example, if in one request five different exemptions were used, one exemption under each relevant section would be reported for a total of five. If the same exemption is used several times for the same request, it is reported only once.

IV. Exclusions Cited

The *Access to Information Act* does not apply to published material, material available for purchase by the public or confidences of the Queen's Privy Council, pursuant to Sections 68 and 69 of the *Act* respectively. As in the case of exemptions Annex A is intended to show the types of exclusions invoked to deny access.

V. - VI. Completion Time and Extensions

In 76.5 percent of completed cases, the Department was able to respond within 30 days. 23.5 percent of completed cases required extensions under the *Act*. Response time for cases where the Department was unable to respond within the original 30 days or within the legal extended deadline are as follows: 9.5 percent within 1 to 30 days; 6.3 percent within 31 to 60 days; 2.6 percent within 61 to 90 days; 1.7 percent within 91-120 days; and 3.4 percent in more than 120 days.

VII. Translations

No translations were required in dealing with these requests.

VIII. Method of Access

In 190 cases, the requesters received copies of the material they were seeking. In 13 cases, the requesters examined the records in person. In 30 cases, access was provided by a combination of copies and in-person examination. It should be noted that the data in this section reflect only those requests where information was all disclosed or disclosed in part.

IX. Fees

The fees collected during the reporting period totalled \$3 762. In accordance with government policy, it is the Department's practice to waive fees where the total owing per request amounts to less than \$25. Fees waived during 1999-2000 represented \$2 406. Fees collected in 1999-2000 are estimated to represent 0.8 percent of the Department's total administration costs.

X. Costs

Total salary costs associated with *Access to Information Act* activities are estimated at \$426 015 for 1999-2000. Other costs amounted to \$130 557 for a total of \$556 572. The associated full-time employee resources for 1999-2000 are estimated at 7.8 Department wide.

In keeping with government guidelines, the Department was consulted by other government institutions in 72 cases where the records sought from these institutions related to the activities of Industry Canada. The cost figures shown above include the resources used in dealing with these cases. However, statistics on these 72 cases are not reflected in other items of Annex A.

The breakdown of requesters below, is not clearly indicative of end users. They must be inferred from information provided on the application form. The breakdown is as follows:

Media	56
Academic	4
Business (including professional requesters)	153
Organization (including MPs)	89
Public	53

Please refer to Annex A for the complete statistical report.

Special Issues

Complaints and Investigations

On the total 349 *Access to Information Act* requests completed during the year, the Department received 15 complaints. Four complaints concerned delays, seven concerned exemptions claimed, two concerned extensions and two concerned miscellaneous issues.

Upon investigation, six complaints were considered well-founded, two were judged as not substantiated, one was discontinued and six are still ongoing.

Appeals to the Federal Court

Two appeals to the Federal Court of Appeal were initiated in the 1999-2000 reporting year. These appeals are awaiting hearing.

Reading Rooms

A reading room is available in the public access area of the ATIP Office at headquarters and in all regional offices. Current Departmental manuals are made available for review on request from the public. During the year, few individuals opted to visit the reading room to examine accessible material rather than to pay the related photocopying fees.

Formal/Informal Interface

Consistent with the principle that the *Act* is intended to complement, rather than replace, existing procedures for access to government information, informal requests may be addressed directly to branches within the Department. Formal requests are processed by the ATIP Office.

Part II - Privacy

The Director of the Information and Privacy Rights Administration (ATIP Office) regularly provides advice and guidance on important and sensitive policy issues, including the handling and protection of personal information gathered and held in Departmental files. Regular intra-departmental briefings along with increased exposure to privacy issues is resulting in improved awareness of the need to meet the requirements of the *Privacy Act*.

Statistical Report - Interpretation and Explanation

Annex B provides a summarized statistical report on the requests for personal information received under the *Privacy Act* that were dealt with in the period from April 1, 1999, to March 31, 2000. The following provides explanations and interpretations for information contained in this report.

I. Requests under the *Privacy Act*

Thirteen new requests were received by Industry Canada during this reporting period.

II. Disposition of Requests Completed

Of the 13 requests dealt with, all were completed during the 1999-2000 reporting period. They are categorized as follows:

All Disclosed — In 3 cases, the requesters were granted full access.

Disclosed in Part — In 6 cases, the requesters were granted partial access.

Unable to Process — After initial review, the Department was unable to process requests in 3 cases.

Transferred — One request concerned records not under the control of the Department. With the consent of the applicant, the request was transferred to the appropriate government institution.

III. Exemptions Invoked

Sections 22, 26 and 27 of the *Act* were the exemptions invoked.

IV. Exclusions Cited

No exclusions were cited in dealing with these requests.

V. - VI. Completion Time and Extensions

In 92 percent of completed cases, the Department was able to respond within 30 days or less and 8 percent within 31 to 60 days.

VII. Translations

No translations were undertaken in dealing with these requests.

VIII. Method of Access

Copies of the records were given in response to nine requests. It should be noted that this category reflects only those requests where the information was all disclosed or disclosed in part.

IX. Corrections and Notation

No requests for corrections or notation were received.

X. Costs

Total salary costs associated with *Privacy Act* activities are estimated at \$41 198 for 1999-2000. Other costs were estimated at \$14 506. for a total cost of \$55 704. The associated full-time employee resources for 1999-2000 are estimated at 1.3 Department wide.

Special Issues

Complaints and Investigations

On the total 13 *Privacy Act* requests completed during the year, the Department received 3 complaints. All 3 complaints concerned exemptions claimed.

Upon investigation, one complaint was not substantiated and two are still ongoing.

Appeals to the Federal Court

There were no appeals to the Federal Court during this reporting period.

Formal/Informal Interface

Employees of the Department continue to be able to access their personnel files on an informal basis, usually without recourse to the Director of the ATIP Office. Requests from individuals have been handled as expeditiously as possible both formally and informally.

Disclosure under Paragraph 8(2)(e) of the *Privacy Act*

No requests for disclosure under Section 8(2)(e) of the *Privacy Act* were received by the Department from federal investigative bodies for the 1999-2000 reporting period.

Use and Disclosure

The intent and requirements of the *Privacy Act* and Treasury Board guidelines regarding the collection, use, disclosure, retention and disposal of personal information are outlined in departmental directives. Departmental employees are aware of their responsibilities for the proper management of personal information holdings. Responsible Sectors are also required to consult with the ATIP Office before collecting any personal information. The Department respects the Use and Disclosure Code.

Further, the ATIP Office must be notified where personal information in a personal information bank is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled, but was not identified in the statement of consistent uses published in Info Source.

The Department does not engage in any data matching activities and there are no data sharing agreements.

Annex A



REPORT ON THE ACCESS TO INFORMATION ACT RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution INDUSTRY CANADA INDUSTRIE CANADA				Reporting period Période visée par le rapport 1999-04-01 to/à 2000-03-31	
Source	Media Médias 56	Academia Secteur universitaire 4	Business Secteur commercial 153	Organization Organisme 89	Public 53
I Requests under the Access to Information Act Demandes en vertu de la Loi sur l'accès à l'information			II Disposition of requests completed Disposition à l'égard des demandes traitées		
Received during reporting period Reçues pendant la période visée par le rapport	355	1. All disclosed Communication totale	128	6. Unable to process Traitement impossible	63
Outstanding from previous period En suspens depuis la période antérieure	46	2. Disclosed in part Communication partielle	105	7. Abandoned by applicant Abandon de la demande	34
TOTAL	401	3. Nothing disclosed (excluded) Aucune communication (exclusion)	1	8. Treated informally Traitement non officiel	9
Completed during reporting period Traitées pendant la période visée par le rapport	349	4. Nothing disclosed (exempt) Aucune communication (exemption)	2	TOTAL	349
Carried forward Reportées	52	5. Transferred Transmission	7		
III Exemptions invoked Exemptions invoquées			IV Exclusions cited Exclusions citées		
S. Art. 13(1)(a)	2	S. Art. 16(1)(a)	10	S. Art. 18(b)	3
(b)	1	(b)	1	(c)	0
(c)	6	(c)	6	(d)	3
(d)	1	(d)	0	S. Art. 19(1)	64
S. Art. 14	8	S. Art. 16(2)	1	S. Art. 20(1)(a)	3
S. 15(1) International rel. Relations intern.	0	S. Art. 16(3)	0	(b)	48
Defence Défense	9	S. Art. 17	0	(c)	34
Subversive activities Activités subversives	0	S. Art. 18(a)	2	(d)	15
V Completion time Délai de traitement			VI Extensions Prorogations des délais		
S. Art. 68(a)	2	S. Art. 69(1)(c)	3	30 days or under 30 jours ou moins	220
(b)	0	(d)	6	31 to 60 days De 31 à 60 jours	51
(c)	0	(e)	13	61 to 120 days De 61 à 120 jours	36
S. Art. 69(1)(a)	17	(f)	3	121 days or over 121 jours et plus	42
(b)	0	(g)	27		
VII Translations Traductions			VIII Method of access Méthode de communication		
Translations requested Traductions demandées	0	Copies given Copies de l'original	190	Examination Examen de l'original	13
Translations prepared Traductions préparées	0	Copies and examination Copies et examen	30		
English to French De l'anglais au français	0				
French to English Du français à l'anglais	0				
IX Fees Frais			X Costs Coûts		
Net fees collected Frais nets perçus			Financial (all reasons) Financiers (raisons)		
Application fees Frais de la demande	\$1,655.00	Preparation Préparation	\$80.00	Salary Traitement	426,015.0
Reproduction	\$1,763.70	Computer processing Traitement informatique	\$0.00	Administration (O and M) Administration (fonctionnement et maintien)	130,557.0
Searching Recherche	\$264.00	TOTAL	\$3,762.70	TOTAL	556,572.0
Fees waived Dispense de frais			Person year utilization (all reasons) Années-personnes utilisées (raisons)		
\$25.00 or under 25 \$ ou moins	197	No. of times Nombre de fois	\$	Person year (decimal format) Années-personnes (nombre décimal)	7.80
Over \$25.00 De plus de 25 \$	10				

Annex B

 Government of Canada / Gouvernement du Canada

REPORT ON THE PRIVACY ACT

RAPPORT CONCERNANT LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

Institution	INDUSTRY CANADA INDUSTRIE CANADA	Reporting period / Période visée par le rapport	1999-04-01 to/à 2000-03-31
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I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels	
Received during reporting period / Reçus pendant la période visée par le rapport	13
Outstanding from previous period / En suspens depuis la période antérieure	0
TOTAL	13
Completed during reporting period / Traitées pendant la période visée par le rapport	13
Carried forward / Reportées	0

II Disposition of requests completed / Disposition à l'égard des demandes traitées	
1. All disclosed / Communication totale	3
2. Disclosed in part / Communication partielle	6
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	0
5. Unable to process / Traitement impossible	3
6. Abandoned by applicant / Abandon de la demande	0
7. Transferred / Transmission	1
TOTAL	13

III Exemptions invoked / Exceptions invoquées	
S. Art. 18(2)	0
S. Art. 19(1)(a)	0
(b)	0
(c)	0
(d)	0
S. Art. 20	0
S. Art. 21	0
S. Art. 22(1)(a)	1
(b)	0
(c)	0
S. Art. 22(2)	0
S. Art. 23(a)	0
(b)	0
S. Art. 24	0
S. Art. 25	0
S. Art. 26	5
S. Art. 27	2
S. Art. 28	0

IV Exclusions cited / Exclusions citées	
S. Art. 69(1)(a)	0
(b)	0
S. Art. 70(1)(a)	0
(b)	0
(c)	0
(d)	0
(e)	0
(f)	0

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	9
31 to 60 days / De 31 à 60 jours	4
61 to 120 days / De 61 à 120 jours	0
121 days or over / 121 jours ou plus	0

VI Extensions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	0	0
Consultation	1	0
Translation / Traduction	0	0
TOTAL	1	0

VII Translations / Traductions	
Translations requested / Traductions demandées	0
Translations prepared / Traductions préparées	0
English to French / De l'anglais au français	0
French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	9
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Corrections and notation / Corrections et mention	
Corrections requested / Corrections demandées	0
Corrections made / Corrections effectuées	0
Notation attached / Mention annexée	0

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	(\$000)
Salary / Traitement	41,198.0
Administration (O and M) / Administration (fonctionnement et maintien)	14,506.0
TOTAL	55,704.0
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	1.3