

QUEEN
KE

4422

.C3

A45

2002/03

C.2

Industry
Canada

Industrie
Canada

IC

2002–03 Annual Report
on the
Access to Information Act
and
Privacy Act

Canada

2002-03 Annual Report
on the
Access to Information Act
and the
Privacy Act



This publication is available upon request in multiple formats.
Contact the Information Distribution Centre at the numbers listed below.

For additional copies of this publication, please contact:

Information Distribution Centre
Communications and Marketing Branch
Industry Canada
Room 268D, West Tower
235 Queen Street
Ottawa ON K1A 0H5

Tel.: (613) 947-7466
Fax: (613) 954-6436
E-mail: publications@ic.gc.ca

This publication is also available electronically on the Web at the following address:
www.ic.gc.ca

Permission to Reproduce

Except as otherwise specifically noted, the information in this publication may be reproduced, in part or in whole and by any means, without charge or further permission from Industry Canada, provided that due diligence is exercised in ensuring the accuracy of the information reproduced; that Industry Canada is identified as the source institution; and that the reproduction is not represented as an official version of the information reproduced, nor as having been made in affiliation with, or with the endorsement of, Industry Canada.

For permission to reproduce the information in this publication for commercial redistribution, please e-mail: copyright.droitdauteur@communication.gc.ca

Cat. No. C1-3/2003
ISBN 0-662-67620-3
53984B



100% recycled material

CONTENTS

Preface	1
About the Organization	
Overview of Industry Canada	2
Information and Privacy Rights Administration	3
Case Load	4
Other Business	4
Fees	4
Information Holdings	5
Web Site	5
Reading Rooms	5
Part I — Access to Information	
Statistical Report — Interpretation and Explanation	6
Complaints and Appeals	8
Formal/Informal Interface	9
Part II — Privacy	
Statistical Report — Interpretation and Explanation	10
Complaints and Appeals	11
Disclosure under Section 8(2)(e) of the <i>Privacy Act</i>	12
Use and Disclosure	12
Formal/Informal Interface	12
Appendix I — Report on the <i>Access to Information Act</i>	13
Appendix II — Report on the <i>Privacy Act</i>	15

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.

This annual report is intended to describe how Industry Canada administered its responsibilities in the twentieth year of operation of the *Access to Information Act* and the *Privacy Act*.

ABOUT THE ORGANIZATION

Overview of Industry Canada

Industry Canada's mandate is to help make Canadians more productive and competitive in the knowledge-based economy, thus improving the standard of living and quality of life in Canada. The Department's policies, programs and services help grow a dynamic and innovative economy that:

- provides more and better-paying jobs for Canadians;
- supports stronger business growth through continued improvements in productivity and innovation performance; and
- gives consumers, businesses and investors confidence that the marketplace is fair, efficient and competitive.

Through its five strategic objectives (innovation, connectedness, marketplace, investment and trade), Industry Canada aims to help Canadians contribute to the knowledge economy and improve productivity and innovation performance.

To help deliver on its strategic objectives, Industry Canada is partnering with other government departments to offer businesses and consumers a variety of programs and services.

Industry Canada is making a difference - contributing to an innovative society where all Canadians have the opportunity to benefit from economic and social prosperity.

For more information about Industry Canada's initiatives, please visit the Web site (<http://www.ic.gc.ca/cmb/Welcomeic.nsf/ICPages/Menu-e>).

Information and Privacy Rights Administration

The Director of the Information and Privacy Rights Administration (hereinafter referred to as 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, coordination 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 (reporting 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 Senior General Counsel of Business Law who in turn reports to the Deputy Minister. In addition to the Director, the Senior General Counsel Business Law and the Ethics Counsellor are also designated with full powers under both Acts.

The ATIP Office has a complement of eleven full-time employees comprising one director, eight advisors and two support staff, all of whom are dedicated to processing access and privacy requests along with other related functions.

The ATIP Office is responsible for conducting consultations with other governments and other federal 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 and 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; and acts as spokesperson for the Department in dealings with the Treasury Board Secretariat, the Information and Privacy Commissioners, and other government departments and agencies.

The Director of the ATIP Office is also the point of contact on issues involving the collection of personal information and privacy.

Case Load

In the fiscal year 2002-03, the Department received 467 access requests and 23 privacy requests, for a total of 490 new requests for information. In addition, the ATIP Office received 142 consultations from other government departments.

Informal requests for information about the Department are dealt with directly by the sector branches and, therefore, are not tracked by the ATIP Office. However, the ATIP Office processed seven formal requests, with the consent of the requesters, on an informal basis.

The total number of requests received, although reduced from the previous year, has significantly increased in the scope, complexity and volume of documents captured. Overall the department completed a total of 571 requests (407 access, 23 privacy and 141 consultations).

Other Business

In addition to processing requests under the *Access to Information Act* and the *Privacy Act*, the ATIP Office also responds, on average, to 50 requests from the general public every year. Documents requested include information about urea-formaldehyde foam insulation (UFFI) and its removal from homes. These types of requests are not included in the statistical information contained in the appendices.

In keeping with government guidelines, the Department was also consulted by 30 other government institutions in 142 cases (of which 141 were completed) where the records sought from these institutions related to the activities of Industry Canada. This represents an increase of 23 percent over the 2001-02 period in which a total of 114 consultations were received. Except for the administrative costs, the statistics related to these cases are not reflected in the appendices.

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. No fees are applicable under the *Privacy Act*.

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 later in this report, the fees collected represent less than 1 percent of the Department's total administration costs.

Information Holdings

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* publications.

The *Info Source* publications contain a description of the classes of institutional records held by Industry Canada. Industry Canada does not have any exempt banks. You may find this information in the latest publications:

- 2002–2003 *Info Source* — *Sources of Federal Government Information*
- 2002–2003 *Info Source* — *Sources of Federal Employee Information*

Info Source can be obtained through public and academic libraries or you may view it on-line on the Treasury Board Secretariat Web site (<http://infosource.gc.ca/index-e.html>).

Web Site

The ATIP Office also has its own Internet site (<http://www.ic.gc.ca/cmb/welcomeic.nsf/icPages/AccessToInformation>). At present, the site contains general information and links to other key departments and agencies.

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, a number of individuals opted to visit the reading room to examine accessible material rather than to pay the related photocopying fees.

PART I — ACCESS TO INFORMATION

Statistical Report — Interpretation and Explanation

Appendix I provides a summarized statistical report on the *Access to Information Act* applications dealt with during the period from April 1, 2002, to March 31, 2003. The following provides explanations and interpretations for information contained in this report.

I. Requests under the *Access to Information Act*

Of the 581 requests dealt with during this reporting period, 467 requests (80 percent) were new, while 114 requests (20 percent) were carried forward from the previous year.

This fiscal year, the largest number of access requests were received by organizations as denoted in Appendix I. A breakdown of Industry Canada clients for the 2002–03 period is as follows:

Media	11%
Academic	0%
Business (includes professional requesters)	31%
Organization (includes political parties)	38%
Public	20%

II. Disposition of Requests Completed

Of the 581 requests dealt with, 407 requests (70 percent) were completed during the 2002–03 reporting period. It follows that 174 requests (30 percent) remained to be processed as of March 31, 2003. The completed requests are categorized as follows:

All Disclosed — Of the 407 requests completed, the requesters were provided with total access to the relevant records in 49 cases.

Disclosed in Part — In another 181 instances, the requesters were granted partial access.

Nothing Disclosed (Excluded) — There were three requests for which information could not be disclosed because all of the information was excluded under the Act.

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

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 407 requests completed, 21 concerned records that were not under the control of the Department. After initial processing, these requests were transferred to the appropriate government institution in accordance with the Act.

Unable to Process — After initial review, the Department was unable to process requests in 81 cases.

Abandoned by Applicant — Of the completed requests, 55 were eventually considered abandoned. Such an action may occur at any stage of request processing.

Treated Informally — In seven 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 Appendix I, 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 appendix 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, Appendix I is intended to show the types of exclusions invoked to deny access.

V. & VI. Completion Time and Extensions

In 54 percent of completed cases, the Department was able to respond within 30 days or less. Approximately 35 percent of completed cases required extensions under the Act. Response times for cases where the Department was unable to respond within the original 30 days are as follows: 11 percent within 31 to 60 days, 16 percent within 61 to 120 days and 19 percent over 121 days.

VII. Translations

No translations were required in dealing with these requests.

VIII. Method of Access

In 225 cases, the requesters received copies of the material they were seeking. In one case, the requesters examined the records in person. In four 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 \$3792.85. 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 2002-03 represented \$2640.30. Fees collected in 2002-03 represent less than 0.5 percent of the Department's total administration costs.

X. Costs

Total salary costs associated with *Access to Information Act* activities are estimated at \$520 211 for 2002-03. Other costs amounted to \$259 180, for a total of \$779 391. The associated full-time employee resources for 2002-03 are estimated at 9.5 Department-wide.

Complaints and Appeals

Complaints and Investigations

The Department received a total of 36 complaints this reporting period, an increase of 33 percent from the previous year. Of these complaints, 30 complaints concerned delays and six concerned exemptions.

Following investigation, five complaints were found to be unsubstantiated, 14 were resolved and 17 are still pending.

Appeals to the Federal Court

Two appeals (i.e. Telezone and McIntyre) reported in 2000-01 were completed and the courts rendered their decision in favour of the Department. The Information Commissioner sought leave to appeal the decision of the Federal Court of Appeal to the Supreme Court. On June 13, 2003, the Supreme Court of Canada dismissed the application.

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 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

Appendix II provides a summarized statistical report on the requests for personal information received under the *Privacy Act* that were dealt with during the period from April 1, 2002, to March 31, 2003. The following provides explanations and interpretations for information contained in this report.

I. Requests under the *Privacy Act*

Of the 26 requests dealt with during this reporting period, 23 requests (88 percent) were new, while three requests (12 percent) were carried forward from the previous year.

II. Disposition of Requests Completed

Of the 26 requests dealt with, 23 requests (88 percent) were completed during the 2002–03 reporting period. It follows that three requests (12 percent) remained to be processed as of March 31, 2003. The completed requests are categorized as follows:

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

Disclosed in Part — In 12 cases, the requesters were granted partial access.

Unable to Process — After initial review, the Department was unable to process five requests.

Abandoned by Applicant — Of the completed requests, one was deemed abandoned. Such an action may occur at any stage of request processing.

Transferred — After initial processing, one request was transferred to the appropriate government institution in accordance with the Act.

III. Exemptions Invoked

As noted in Appendix II, exemptions pursuant to sections 19, 21, 22, 25, 26 and 27 of the *Privacy Act* were invoked by the Department.

IV. Exclusions Cited

No exclusions were invoked by the Department.

V. & VI. Completion Time and Extensions

In 61 percent of completed cases, the Department was able to respond within 30 days or less. Approximately 22 percent of completed cases required extensions under the Act. Response times for cases where the Department was unable to respond within the original 30 days are as follows: 21 percent were completed within 31 to 60 days, 9 percent within 61 to 120 days and 9 percent over 121 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 16 requests and none sought the right of examination. 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 \$29 610 for 2002-03. Other costs were estimated at \$13 641, for a total cost of \$43 251. The associated full-time employee resources for 2002-03 are estimated at 0.50 Department-wide.

Complaints and Appeals

Complaints and Investigations

The Department received a total of four complaints this reporting period. One complaint concerned exemptions claimed, one involved delays, and two related to miscellaneous issues.

Upon investigation, one complaint was found to be unsubstantiated and three remain outstanding.

Appeals to the Federal Court

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

Disclosure under Section 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 2002–03 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 made 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.

Furthermore, 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*.

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.

**APPENDIX I: REPORT ON THE *ACCESS TO
INFORMATION ACT***



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 4/1/2002 to/à 3/31/2003	
Source	Media Médias 50	Academia Secteur universitaire 2	Business Secteur commercial 143	Organization Organisme 178	Public 94

I Requests under the Access to Information Act
Demandes en vertu de la Loi sur l'accès à l'information

Received during reporting period Reçues pendant la période visée par le rapport	467
Outstanding from previous period En suspens depuis la période antérieure	114
TOTAL	581
Completed during reporting period Traitées pendant la période visée par le rapport	407
Carried forward Reportées	174

II Disposition of requests completed
Disposition à l'égard des demandes traitées

1. All disclosed Communication totale	49	6. Unable to process Traitement impossible	81
2. Disclosed in part Communication partielle	181	7. Abandoned by applicant Abandon de la demande	55
3. Nothing disclosed (excluded) Aucune communication (exclusion)	3	8. Treated informally Traitement non officiel	7
4. Nothing disclosed (exempt) Aucune communication (exemption)	10	TOTAL	407
5. Transferred Transmission	21		

III Exemptions invoked
Exemptions invoquées

S. Art. 13(1)(a)	0	S. Art. 16(1)(a)	3	S. Art. 18(b)	7	S. Art. 21(1)(a)	41
(b)	1	(b)	1	(c)	0	(b)	39
(c)	2	(c)	1	(d)	2	(c)	8
(d)	1	(d)	0	S. Art. 19(1)	91	(d)	0
S. Art. 14	3	S. Art. 16(2)	2	S. Art. 20(1)(a)	1	S. Art. 22	2
S. 15(1) International rel. Relations intern.	0	S. Art. 16(3)	0	(b)	39	S. Art. 23	13
Defence Défense	7	S. Art. 17	0	(c)	31	S. Art. 24	2
Subversive activities Activités subversives	0	S. Art. 18(a)	10	(d)	3	S. Art. 26	7

IV Exclusions cited
Exclusions citées

S. Art. 68(a)	7	S. Art. 69(1)(c)	2
(b)	0	(d)	7
(c)	0	(e)	11
S. Art. 69(1)(a)	11	(f)	3
(b)	0	(g)	24

V Completion time
Délai de traitement

30 days or under 30 jours ou moins	219
31 to 60 days De 31 à 60 jours	47
61 to 120 days De 61 à 120 jours	64
121 days or over 121 jours et plus	77

VI Extensions
Prorogations des délais

	30 days or under 30 jours ou moins	31 days or over 31 jours ou plus
Searching Recherche	5	12
Consultation	48	33
Third party Tiers	22	42
TOTAL	75	87

VII Translations
Traductions

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

VIII Method of access
Méthode de communication

Copies given Copies de l'original	225
Examination Examen de l'original	1
Copies and examination Copies et examen	4

IX Fees
Frais

Net fees collected Frais nets perçus			
Application fees Frais de la demande	\$2,215.00	Preparation Préparation	\$0.00
Reproduction	\$826.00	Computer processing Traitement informatique	\$0.00
Searching Recherche	\$751.85	TOTAL	\$3,792.85
Fees waived Dispense de frais		No. of times Nombre de fois	\$
\$25.00 or under 25 \$ ou moins		184	\$1,659.50
Over \$25.00 De plus de 25 \$		19	\$980.80

X Costs
Coûts

Financial (all reasons) Financiers (raisons)		(\$000)
Salary Traitement		520,211.0
Administration (O and M) Administration (fonctionnement et maintien)		259,180.0
TOTAL		779,391.0
Person year utilization (all reasons) Années-personnes utilisées (raisons)		
Person year (decimal format) Années-personnes (nombre décimal)		9.50

APPENDIX II: REPORT ON THE *PRIVACY ACT*

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 4/1/2002 to/à 3/31/2003
-------------	-------------------------------------	--

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	23
Outstanding from previous period En suspens depuis la période antérieure	3
TOTAL	26
Completed during reporting period Traitées pendant la période visée par le rapport	23
Carried forward Reportées	3

II Disposition of requests completed Disposition à l'égard des demandes traitées

1. All disclosed Communication totale	4
2. Disclosed in part Communication partielle	12
3. Nothing disclosed (excluded) Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) Aucune communication (exemption)	0
5. Unable to process Traitement impossible	5
6. Abandoned by applicant Abandon de la demande	1
7. Transferred Transmission	1
TOTAL	23

III Exemptions invoked Exceptions invoquées

S. Art. 18(2)	0
S. Art. 19(1)(a)	1
(b)	0
(c)	0
(d)	0
S. Art. 20	0
S. Art. 21	1
S. Art. 22(1)(a)	0
(b)	0
(c)	0
S. Art. 22(2)	1
S. Art. 23(a)	0
(b)	0
S. Art. 24	0
S. Art. 25	1
S. Art. 26	10
S. Art. 27	1
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	14
31 to 60 days De 31 à 60 jours	5
61 to 120 days De 61 à 120 jours	2
121 days or over 121 jours ou plus	2

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	1	0
Consultation	5	0
Translation Traduction	0	0
TOTAL	6	0

VII Translations Traductions

Translations requested Traductions demandées	0
Translations prepared De l'anglais au français	0
Traductions préparées Du français à l'anglais	0

VIII Method of access Méthode de consultation

Copies given Copies de l'original	16
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	29,610.
Administration (O and M) Administration (fonctionnement et maintien)	13,641.
TOTAL	43,251.
Person year utilization (all reasons) Années-personnes utilisées (raisons)	
Person year (decimal format) Années-personnes (nombre décimal)	0.5