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**2003–04 Annual Report
on the
Access to Information Act
and the
*Privacy Act***

Canada

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on the
Access to Information Act
and the
Privacy Act

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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.

This annual report is intended to describe how Industry Canada administered its responsibilities in the twenty-first 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 strategic objectives (innovation, connectedness and marketplace), 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 (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 fifteen employees comprising one director, twelve advisors, and two support staff, all of whom are dedicated to processing access and privacy requests along with other related functions. In actuality, the office had a total of eleven full-time employees; staffing actions were underway but not completed by end of March 2004.

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

* In April 2004, the Office of the Ethics Counsellor was abolished and the Office of the Ethics Commissioner was created. This new office will report directly to Parliament and will not be subject to the ATIP legislation.

Case Load

In the fiscal year 2003–04, the Department received 465 access requests and 17 privacy requests, for a total of 482 new requests for information. In addition, the ATIP Office received 135 consultation requests 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 did process 20 requests, with the consent of the requesters, on an informal basis.

During this reporting period, the ATIP Office also received 23 requests for copies of documents that were previously released under the *Access to Information Act*. These were processed informally.

The total number of requests received, although slightly reduced from the previous year, still remains significant with respect to the scope, complexity and volume of documents captured. Overall, the Department completed a total of 714 requests (558 access, 16 privacy and 140 consultation).

Other Business

In addition to processing requests under the *Access to Information Act* and the *Privacy Act*, the ATIP Office also responds to, on average, 20 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 135 cases, where the records sought from these institutions related to the activities of Industry Canada. This represents a slight decrease from 2002–03 as compared to the 142 consultation requests received in that period. Except for the administrative costs, the statistics related to these cases are not reflected in the appendices.

Privacy Impact Assessment

In 2003–2004, one privacy impact assessment was finalized and approved for the Office of the Superintendent of Bankruptcy (OSB) concerning its e-filing initiative. The service of filing for bankruptcy has been conducted in traditional fashion via paper transactions. The initiative was to ease the paper burden and allow for the electronic transmission of forms required under the *Bankruptcy and Insolvency Act* between the private-sector trustee community and the OSB. Please see our Web site (www.ic.gc.ca/cmb/welcomeic.nsf/AccessToInfo/References) for more information.

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 0.5 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:

- 2003–2004 *Info Source* — *Sources of Federal Government Information*
- 2003–2004 *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 (infosource.gc.ca/index-e.html).

Web Site

The ATIP Office also has its own Internet site (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.

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, 2003, to March 31, 2004. The following provides explanations and interpretations for information contained in this report.

I. Requests Under the *Access to Information Act*

Of the 638 requests dealt with during this reporting period, 465 requests (73 percent) were new, while 173 requests (27 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 2003–04 period is as follows:

Media	12%
Academic	1%
Business (includes professional requesters)	30%
Organization (includes political parties)	35%
Public	22%

II. Disposition of Requests Completed

Of the 638 requests dealt with, 558 requests (87 percent) were completed during the 2003–04 reporting period. It follows that 80 requests (13 percent) remained to be processed as of March 31, 2004. The completed requests are categorized as follows:

All Disclosed — Of the 558 requests completed, the requesters were provided with total access to the relevant records in 92 cases.

Disclosed in Part — In another 297 instances, the requesters were granted partial access.

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

Nothing Disclosed (Exempted) — There were 16 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 558 requests completed, four 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 96 cases.

Abandoned by Applicant — Of the completed requests, 25 were eventually considered abandoned. Such an action may occur at any stage of request processing.

Treated Informally — In 20 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 40 percent of completed cases, the Department was able to respond within 30 days or less. Approximately 49 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: 13 percent within 31 to 60 days, 16 percent within 61 to 120 days, and 31 percent over 121 days.

VII. Translations

No translations were required in dealing with these requests.

VIII. Method of Access

In 385 cases, the requesters received copies of the material they were seeking. In three cases, the requesters examined the records in person. In one case, 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 \$4467.10. 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 2003-04 represented \$2612.35. Fees collected in 2003-04 represent less than 0.5 percent of the Department's total administration costs.

You will also note that the fees waived in this reporting period occurred in 389 cases, an increase from the 184 in last year's reporting period. This is due to a new electronic disclosure service. In order to reduce costs and increase efficiency, documents released are being provided on CD-ROM, which means no copy charges for the applicant.

X. Costs

Total salary costs associated with *Access to Information Act* activities are estimated at \$690 920 for 2003-04. Other costs amounted to \$213 271, for a total of \$904 191. The associated full-time employee resources for 2003-04 are estimated at 12.48 Department-wide.

Complaints and Appeals

Complaints and Investigations

The Department received a total of 148 complaints this reporting period, an increase of 348 percent from the previous year. Of these complaints, five complaints concerned delays, ten related to extensions, two concerned exclusions, 19 related to exemptions applied and 112 were related to general refusal.*

Following investigation, seven complaints were found to be unsubstantiated, 119 were resolved, one was discontinued and 21 were still pending at the end of this reporting period.

* In May 2003, the Information Commissioner self-initiated 111 delay complaints (general refusal) against Industry Canada. This was as a result of concerns that were raised about the Department's increasing delays in responding to requests within legal time frames. All 111 complaints have been resolved.

Reasons identified for delays were due, in part, to large case backlog, and lack of qualified resources. The ATIP Office was provided with additional resources and streamlined procedures to increase compliance.

Appeals to the Federal Court

There were no appeals filed in 2003-04.

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.

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, 2003, to March 31, 2004. The following provides explanations and interpretations for information contained in this report.

I. Requests Under the *Privacy Act*

Of the 20 requests dealt with during this reporting period, 17 requests (85 percent) were new, while three requests (15 percent) were carried forward from the previous year.

II. Disposition of Requests Completed

Of the 20 requests dealt with, 16 requests (80 percent) were completed during the 2003–04 reporting period. It follows that four requests (20 percent) remained to be processed as of March 31, 2004. The completed requests are categorized as follows:

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

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

Nothing Disclosed (Exempted) — There were two 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 two requests.

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

III. Exemptions Invoked

As noted in Appendix II, exemptions pursuant to sections 22, 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 62 percent of completed cases, the Department was able to respond within 30 days or less. Approximately 31 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: 19 percent were completed within 31 to 60 days, 19 percent within 61 to 120 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 eight 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 \$27 222 for 2003-04. Other costs were estimated at \$8886, for a total cost of \$36 108. The associated full-time employee resources for 2003-04 are estimated at 0.70 Department-wide.

Complaints and Appeals

Complaints and Investigations

The Department received a total of five complaints this reporting period. One complaint concerned exemptions claimed, three on the use and disclosure of personal information and one on the collection of personal information.

Upon investigation of the complaints pertaining to the use and disclosure of personal information, two complaints were deemed not well-founded and one was deemed well-founded. Two complaints 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*

One request for disclosure under section 8(2)(e) of the *Privacy Act* was received by the Department from a federal investigative body for the 2003–04 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 4/1/2003 to/à 3/31/2004	
Source	Media Médias 57	Academia Secteur universitaire 4	Business Secteur commercial 138	Organization Organisme 162	Public 104

I Requests under the Access to Information Act <i>Demandes en vertu de la Loi sur l'accès à l'information</i>	
Received during reporting period Reçues pendant la période visée par le rapport	465
Outstanding from previous period En suspens depuis la période antérieure	173
TOTAL	638
Completed during reporting period Traitées pendant la période visée par le rapport	558
Carried forward Reportées	80

II Disposition of requests completed <i>Disposition à l'égard des demandes traitées</i>			
1. All disclosed Communication totale	92	6. Unable to process Traitement impossible	96
2. Disclosed in part Communication partielle	297	7. Abandoned by applicant Abandon de la demande	25
3. Nothing disclosed (excluded) Aucune communication (exclusion)	8	8. Treated informally Traitement non officiel	20
4. Nothing disclosed (exempt) Aucune communication (exemption)	16	TOTAL	558
5. Transferred Transmission	4		

III Exemptions Invoked <i>Exemptions invoquées</i>							
S. Art. 13(1)(a)	6	S. Art. 16(1)(a)	8	S. Art. 18(b)	21	S. Art. 21(1)(a)	141
(b)	4	(b)	0	(c)	0	(b)	123
(c)	12	(c)	13	(d)	3	(c)	32
(d)	1	(d)	0	S. Art. 19(1)	273	(d)	6
S. Art. 14	21	S. Art. 16(2)	4	S. Art. 20(1)(a)	3	S. Art. 22	8
S. 15(1) International rel. Art. Relations intern.	1	S. Art. 16(3)	0	(b)	131	S. Art. 23	52
Defence Défense	19	S. Art. 17	0	(c)	75	S. Art. 24	10
Subversive activities Activités subversives	0	S. Art. 18(a)	21	(d)	8	S. Art. 26	4

IV Exclusions cited <i>Exclusions citées</i>			
S. Art. 68(a)	22	S. Art. 69(1)(c)	7
(b)	0	(d)	14
(c)	0	(e)	23
S. Art. 69(1)(a)	19	(f)	5
(b)	0	(g)	65

V Completion time <i>Délai de traitement</i>	
30 days or under 30 jours ou moins	223
31 to 60 days De 31 à 60 jours	70
61 to 120 days De 61 à 120 jours	92
121 days or over 121 jours et plus	173

VI Extensions <i>Prorogations des délais</i>		
	30 days or under 30 jours ou moins	31 days or over 31 jours ou plus
Searching Recherche	5	21
Consultation	59	110
Third party Tiers	19	59
TOTAL	83	190

VII Translations <i>Traductions</i>		
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 <i>Méthode de communication</i>	
Copies given Copies de l'original	385
Examination Examen de l'original	3
Copies and examination Copies et examen	1

IX Fees <i>Frais</i>			
Net fees collected Frais nets perçus			
Application fees Frais de la demande	\$2,230.00	Preparation Préparation	\$1,297.50
Reproduction	\$604.60	Computer processing Traitement informatique	\$75.00
Searching Recherche	\$260.00	TOTAL	\$4,467.10
Fees waived Dispense de frais		No. of times Nombre de fois	\$
\$25.00 or under 25 \$ ou moins		379	\$2,237.80
Over \$25.00 De plus de 25 \$		10	\$374.55

X Costs <i>Coûts</i>	
Financial (all reasons) Financiers (raisons) (\$000)	
Salary Traitement	690,920.0
Administration (O and M) Administration (fonctionnement et maintien)	213,271.0
TOTAL	904,191.0
Person year utilization (all reasons) Années-personnes utilisées (raisons)	
Person year (decimal format) Années-personnes (nombre décimal)	12.48

APPENDIX II: REPORT ON THE *PRIVACY ACT*

Government
of CanadaGouvernement
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 4/1/2003 to/à 3/31/2004
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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 Reçues pendant la période visée par le rapport	17
Outstanding from previous period En suspens depuis la période antérieure	3
TOTAL	20
Completed during reporting period Traitées pendant la période visée par le rapport	16
Carried forward Reportées	4

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

1. All disclosed Communication totale	3
2. Disclosed in part Communication partielle	5
3. Nothing disclosed (excluded) Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) Aucune communication (exemption)	2
5. Unable to process Traitement impossible	2
6. Abandoned by applicant Abandon de la demande	4
7. Transferred Transmission	0
TOTAL	16

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)	0
(b)	1
(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	8
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	10
31 to 60 days De 31 à 60 jours	3
61 to 120 days De 61 à 120 jours	3
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	5	0
Translation Traduction	0	0
TOTAL	5	0

VII Translations
Traductions

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

VIII Method of access
Méthode de consultation

Copies given Copies de l'original	8
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	27,222.0
Administration (O and M) Administration (fonctionnement et maintien)	8,886.0
TOTAL	36,108.0
Person year utilization (all reasons) Années-personnes utilisées (raisons)	
Person year (decimal format) Années-personnes (nombre décimal)	0.70