

## REVIEW OF NATIONAL IMPLEMENTING LEGISLATION

### CANADA

The present document reproduces the questions put to the delegation of Canada and the responses given and comments made during the review of national implementing legislation at the Committee's meeting of 5 October 1999.<sup>1</sup> Canada's notification of its national implementing legislation in accordance with the Committee's Decision in GPA/1/Add.1 has been circulated in document GPA/13, dated 27 March 1997.

## REPLIES TO THE QUESTIONS FROM THE EUROPEAN COMMUNITY; HONG KONG, CHINA; SWITZERLAND AND THE UNITED STATES

### I. GENERAL

#### Question from the United States

1. *Are the requirements of the GPA simply incorporated by reference rather than being specifically implemented through separate Canadian legislation, regulations or other policy instruments?*

Bill C-57, *An Act to Implement the Agreement establishing the World Trade Organization* (the WTO Implementation Act), entered into force on 1 January 1995. The WTO Implementation Act accomplished all that was necessary, by way of legislation, to ensure that Canada's obligations under the Agreement on Government Procurement (GPA) can be met. Section 3 provides that the purpose of the WTO Implementation Act is to implement the Agreement Establishing the World Trade Organization, including the agreements set out in Annexes 1A, 1B, 1C, 2 and 3 thereof and the agreements set out in Annex 4 thereof that have been accepted by Canada (collectively, the WTO Agreement). Section 4 provides that the WTO Implementation Act is binding on the Government of Canada.

Part I of the WTO Implementation Act contains general provisions applicable to implementation of the WTO Agreement. Section 8 provides that the WTO Agreement is approved. Sections 9 to 13 empower the Federal Cabinet to take various kinds of action in furtherance of administering Canada's activities under the WTO Agreement.

Part II of the WTO Implementation Act also provides for related and consequential amendments to other federal legislation required to give effect to the WTO Agreements, including the GPA.

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<sup>1</sup> The minutes of this meeting have been circulated in document GPA/M/12.

Section 116 of the WTO Implementation Act provides for amendments to the *Financial Administration Act* that permit the Federal Cabinet to give a directive to any parent crown corporation for the purpose of implementing the WTO Agreement. This enables the Federal Cabinet to require the government enterprises listed in Canada's Annex 3 of Appendix I of the GPA to comply with the requirements of the GPA.

Sections 40 to 42 and 44 to 46 of the WTO Act provide for a number of minor amendments to the *Canadian International Trade Tribunal Act*. More extensive amendments of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* were undertaken in order to empower the Canadian International Trade Tribunal (the "Tribunal") to conduct an inquiry into a complaint regarding any aspect of the procurement process in respect of a contract for the procurement of goods or services, or any combination of goods and services, described in Article I of the GPA. Prior to these amendments, the Tribunal had jurisdiction to conduct an inquiry for any such contract described in Article 1001 of the North American Free Trade Agreement (NAFTA) or in Article 502 of the Agreement on Internal Trade (AIT).

The *Canadian International Trade Tribunal Rules* govern the proceedings, practice and procedures of the Tribunal in dealing with procurement complaints. The rules already provided for procurement complaints under the NAFTA and the AIT when the GPA entered into force and did not require amendment.

#### Question from the European Community

2. As regards the very qualification of government procurement in Canada, public service contracts are not subject to any well-defined set of rules and the terms of access for foreigners are not specified either. The awarding of public service contracts by means of concession, leasing, state-owned concern, etc. is neither very developed nor very formalized. Apart from the so-called BOT formula (the nearest to the concession formula), there are no model contracts nor is there any differentiation from government procurement proper or from administrative contracts of other kinds. Ad hoc rules normally prevail (enabling, in the case in question, foreign candidates to have access to the tendering procedures). Despite the likely prospect of a proliferation of public service contracts at the federal, provincial and local levels, Canada has no rules regarding non-discrimination against foreigners nor regarding transparency and publicity when it comes to the implementation of procedures. What are its intentions, therefore, at both the internal and international levels?

We are unable to discern from the above a question related to Canada's implementing legislation for the WTO Agreement on Government Procurement. As stated in the Checklist of Issues at paragraph 1:

"Bill C-57, *An Act to Implement the Agreement Establishing the World Trade Organization*, brought the GPA into force for Canada on 1 January 1996. Certain amendments to the *Financial Administration Act*, the *Canadian International Trade Tribunal Act* and the *Canadian International Trade Tribunal Procurement Inquiry Regulations* were required to implement the GPA into Canadian law."

In addition as per paragraph 6:

"The *WTO Implementation Act* does not contain specific provisions that reflect the national treatment and non-discrimination commitments of Article III. Rather, it approves the Agreement Establishing the World Trade Organization, including the agreements set out in Annexes 1A, 1B, 1C, 2 and 3 thereof and the agreements set out in Annex 4 thereof that have been accepted by Canada (i.e. the GPA, among others). It also provides for related and consequential amendments to other federal legislation required to give effect to the various agreements, including the GPA.

The Canadian International Trade Tribunal Act (CITT Act) and the Canadian International Trade Tribunal Procurement Inquiry Regulations (CITT Regulations) were amended to empower the Canadian International Trade Tribunal (Tribunal) to conduct an inquiry into a complaint into any aspect of the procurement process in respect of a contract for the procurement of goods or services, or any combination of goods and services, described in Article I of the GPA. Prior to these amendments, the Tribunal had no jurisdiction to conduct an inquiry for any such contract described in Article 1001 of the NAFTA or in Article 502 of the AIT."

Section 30.14 (2) of the CITT Act provides:

"At the conclusion of an inquiry, the Tribunal shall determine whether the complaint is valid on the basis of whether the procedures and other requirements prescribed in respect of the designated contract, or the class of contracts to which it belongs, have been or are being observed."

Section 11 of the CITT Regulation provides:

"Where the Tribunal conducts an inquiry into a complaint, it shall determine whether the procurement was conducted in accordance with the requirements set out in whichever one of the NAFTA, the Agreement on Internal Trade or the Agreement on Government Procurement applies.

Thus, alleged failure to accord national treatment or non-discrimination as required by Article III of the Agreement would be a matter for the Tribunal to consider in determining whether a complaint is valid."

Therefore, when a procurement is covered by the WTO Agreement on Government Procurement, procuring authorities follow the law, which in this case means all of the requirements of the Agreement on Government Procurement. We strongly disagree with the unsubstantiated assertions in this question.

## **II. SCOPE AND COVERAGE**

### Question from the United States

1. *Canada has not responded in substance to questions 2, 3, 4 and 8 of the Checklist of Issues and other questions relating to covered sub-central entities. However, in Annexes 2 and 3 of the GPA, Canada agreed to "cover entities in all ten provinces on the basis of commitments obtained from provincial governments" and to specify "coverage of Sub-central Enterprises for Goods, Services and Construction Services....within eighteen months after the conclusion of the new Government Procurement Agreement." Nine Federal enterprises are specifically covered in Annex 3. In this context, please provide substantive responses to questions 2, 3, 4, 8, 9, 10 and 11 of the Checklist, and to the United States' question 6, below, with respect to covered sub-central entities, including the Federal enterprises listed in Annex 3.*

General Note 6 of Canada's offer states the following:

"The offer by Canada, with respect to goods and services (including construction) in Annexes 2 and 3, is subject to negotiation of mutually acceptable commitments (including thresholds) with other Parties, with initial commitments to be specified on or before 15 April 1994 and specific commitments to be confirmed within eighteen months after the conclusion of the new Government Procurement Agreement."

Mutually acceptable commitments were not negotiated with other Parties in the 18-month period between April 1994 and October 1995. As a result, Canada did not confirm any specific commitments in October 1995 (nor have we since that time).

As declared by the Canadian Statement to the WTO Agreement on Government Procurement on 25 October 1995, "Canada is prepared to table an offer at the sub-central level if, and only if, members are prepared: (1) to include sectors of priority to Canadian suppliers, for example, in the steel and transportation areas; and (2) to agree to circumscribe the use of small business and other set asides in a manner that, while not precluding their use, would provide an acceptable security of access to suppliers from all members of this committee."

Therefore, these questions are not applicable.

Question from the European Community

2. *Canada has stated that "it is prepared to table an offer at the sub-central level if Members are prepared: (1) to include sectors of priority to Canadian suppliers, for example, in the steel and transportation areas; and (2) to agree to circumscribe the use of small business and other set asides in a manner that, while not precluding their use, would provide an acceptable security of access to suppliers from all Parties." The European Community has opened the transport sector to certain GPA Parties and does not have any preferences for small and medium sized enterprises. Could Canada please explain the apparent inconsistency in its position given that it has refused to enter into negotiations with the European Community with respect to entities at the sub-central level?*

Canada's position of linking the tabling of its schedule at the sub-central level to achieving increased market access in sectors of priority interest to Canadian suppliers and improving security of market access through circumscribing the use of small business and other set-aside exceptions under the Agreement, remains unchanged.

The discriminatory and restrictive nature of Small Business Set-Asides and Buy American stem from US procurement policies at the national level. They are applied by States and municipalities in their procurement when federal funding is provided, particularly in the transportation and highways sectors. Therefore, US federal government policies must be addressed to assure market access and non-discriminatory treatment for suppliers to US State and municipal governments.

Question from the European Community

3. *The application of non-discrimination rules to the sub-federal levels poses a problem. The Canadian provinces, subject as they are to the Agreement on Internal Trade (AIT), are not aware of (and do not accept) any obligation with regard to NAFTA and a fortiori to the ADP. In particular, national preference rules (allowing a price difference of up to ten per cent to be taken into account) apply in Quebec, Ontario and British Columbia. At the local level, the organization of which (municipalities, health system and educational system) falls exclusively within the competence of the provinces, this ignorance is even greater and localism is even stronger, to the detriment of both the rest of Canada and the rest of the world. At the sub-federal level, therefore, Canada is not complying with the obligations stemming from the AGP. When does it intend to do so?*

Please see the response to the Questions from The United States No. 1 on scope and coverage, above.

### III. TENDERING PROCEDURES

#### Question from Hong Kong, China

1. *With regard to the reply to question 9 in the Checklist of Issues, in some cases, procuring entities may need to pre-qualify the suppliers before inviting them to participate in a tender. Does Canada consider this as a form of selective tendering?*

Canada follows the provisions of the WTO Agreement on Government Procurement with regard to the issue of selective tendering. Procuring entities may choose to use selective tendering procedures where they believe a pre-qualification process is required prior to inviting suppliers to participate in a tender.

#### Question from Switzerland

2. *With regard to selective tendering procedures (Question 9 in the Checklist of Issues), it is mentioned that the procuring entity decides whether to use open or selective tendering procedures depending on the nature of the requirement. In the case of selective tendering, is there any rule requiring for minimal number of bidders in the second stage of the procedures? To what extent are entities allowed to use permanent or source lists of suppliers? Do potential suppliers and service providers have, at any time, the possibility to ask for inclusion in the list? Is the decision to refuse acceptance of a supplier contestable?*

In the case of selective tendering, there is no specific rule regarding the minimum number of bidders in the second stage of the procedures. The decision to use a permanent list is made by the procurement organization on a case-by-case basis. In accordance with Article VIII(d), potential suppliers have the opportunity to request inclusion in a list of permanent suppliers at any time. Any aspect of the procurement process may be challenged, including the refusal to accept a supplier on a list.

#### Question from the United States

3. *Please explain how Canada determines when the use of limited tendering procedures is permitted. Are there specific laws or regulations that define when such procedures may be used? How does Canada ensure that limited tendering procedures are not used with a view to avoiding maximum possible competition or in a manner which would constitute a means of discrimination among suppliers of other Parties to the GPA?*

Limited tendering procedures are used as permitted within the GPA. In accordance with Article VII, limited tendering procedures are allowed only under the conditions specified in Article XV:1 (a) through (j). Canada ensures a high level of transparency for limited tendering by publishing Advance Contract Award Notices. This gives potential suppliers a chance to challenge the government's decision to approach only one source.

#### Question from the United States

4. *Canada's response to question 11 of the Checklist states that the period for the receipt of tenders varies from 7 to 40 days, depending upon the relevant legislation of policy. Please elaborate upon this and specify the legislation, regulations or other policy instruments which set out the conditions for the use of the different time limits. Under what conditions, if any, are entities permitted to establish time periods for bidding that are shorter than those provided for in Article XI:2 of the GPA?*

All notice periods for open and selective tendering are established in accordance with the provisions of the WTO Agreement on Government Procurement.

Even when limited tendering is used, procurement authorities are encouraged to publish a notice, in the form of a limited tendering notice known as an Advance Contract Award Notice (ACAN), which is advertised on MERX and in the GBO (Government Business Opportunities) Bulletin. The ACAN, which is used only for limited tendering, is posted for seven working days. This gives potential suppliers an additional chance to challenge the government's decision to approach only one source. Potential suppliers have 15 calendar days in which to challenge the award.

#### Question from the European Community

5. *The rules applicable to federal government procurement limit the possibilities of verifying whether there is any discrimination in the contracts awarded by the federal administration. The possibilities of avoiding tendering procedures are many. The European Community would like to have some clarification, in particular, of the utilisation of Chapter 8 of the Government Contracts Regulations of 23 June 1994:*

- *What is the proportion of non-competitive contracts in federal purchases (the subject of this chapter)?*
- *What is the actual distribution among the various cases of non-competitive procedures provided for in Article 5002 of these Regulations?*
- *How frequently are contracts concluded without prior notice of putting out to tender (case of minimum advertising of the public purchase) and what is the actual distribution between the cases provided for in Articles 8007 and 8008 of these Regulations?*

We are unable to locate a document titled Government Contracts Regulations of 23 June 1994 with the Chapter and Article system described above.

As stated in response to Question 1 of the European Community, procuring authorities follow the law. Where procurement is covered by the WTO Agreement on Government Procurement, they only use the limited tendering reasons specified in Article XV of the WTO Agreement on Government Procurement. Please note that the 1996 statistics that Canada has deposited provide the information required by Article XIX:5 of the WTO Agreement on Government Procurement on limited tendering by reason.

#### Question from the European Community

6. *The situation of public corporation contracts is also ambiguous. They are not subject to the government procurement regulations proper but to a much vaguer obligation to have recourse to competitive procedures. The Agreement on Internal Trade (AIT) applies in part only to these corporations (energy, in particular, is excluded although Hydro-Quebec, for instance, is the fifth largest public buyer in North America), while the NAFTA rules, which apply only to federal-level public corporations, fix liberalization thresholds that are even higher than those for procurement proper. In a context in which public services are administered more and more frequently by bodies other than central government entities (e.g. air transport), what status does Canada intend to give to purchases by public corporations at all levels?*

Please see the response to Section III "Questions from The United States" No. 1 on scope and coverage, above.

#### IV. VALUATION OF CONTRACTS

##### Question from the United States

1. *Please explain how Canada ensures, in accordance with Article II:3 of the GPA, that individual procurement requirements are not divided in such a way as to avoid application of the Agreement.*

The valuation of contracts is conducted in accordance with the GPA including adherence to Article II:3. As such, the valuation method selected by the entity is not used, nor is any procurement requirement divided, with the intention of avoiding the application of the GPA.

#### V. TRANSPARENCY PROCEDURES AND APPLICATION OF INFORMATION TECHNOLOGY

##### Questions from Switzerland

1. *Regarding invitation to participate in Question 7 in the Checklist of Issues, it is mentioned that all of the entities covered by the Agreement are permitted to publish an invitation to participate. In the case of publishing an invitation in the form of a notice of proposed procurement, how are the requirements of Article IX:6 relating to the provision of information met? Is it possible to challenge the published note?*

Invitations to participate are published in the Government Business Opportunities (GBO) and are also advertised on MERX, which provides Canada's government electronic tendering service. All information requirements of Article IX:6 are contained in the notice of proposed procurement. Any aspect of the procurement process may be challenged, including the published note.

Information concerning MERX, is available at the following website address:  
[www.merx.cebra.com](http://www.merx.cebra.com).

##### Question from Switzerland

2. *Is there any contact point providing information on procurement matters for suppliers and service providers from Parties to the GPA?*

Information on procurement matters is accessible through the following Federal government websites:

<u>Contracts Canada</u>	<a href="http://www.contractsCanada.gc.ca">www.contractsCanada.gc.ca</a>
<u>Treasury Board Secretariat</u>	<a href="http://www.tbs-sct.gc.ca">www.tbs-sct.gc.ca</a>
<u>MERX electronic tendering service</u>	<a href="http://www.merx.cebra.com">www.merx.cebra.com</a>

The Contracts Canada website provides information for suppliers on how to do business or to sell to the Canadian government. The treasury Board Secretariat website provides information on government procurement policy. The MERX website contains notices on government procurement. The three websites are linked.

Question from Hong Kong, China

3. *It is mentioned in the reply to Question 5 in the Checklist of Issues that all procurements covered by the WTO GPA are advertised on the Open Bidding Service and Government Business Opportunities. Does Canada have any plans to receive bids through these two systems or otherwise by electronic means?*

Canada does not have a policy on receipt of bids electronically. Canada does receive some bids or portions of bids electronically on a case-by-case basis. Canada has no plans to use the electronic tendering system for this purpose.

The Government Electronic Tendering Service is operated by the MERX system, which provides both the electronic and paper publications (Government Business Opportunities). The Open Bidding Service (OBS), operated by ISM Inc., was formerly used at the government electronic tendering service.

The Internet website of the Government Electronic Tendering Service provided by MERX is: [www.merx.cebra.com](http://www.merx.cebra.com).

## **VI. BID CHALLENGE PROCEDURES AND ENFORCEMENT**

Question from Hong Kong, China

1. *The Canadian International Trade Tribunal is responsible for determining the validity of procurement complaints. Its name, however, suggests that it may cover more than bid challenges under the GPA, but other forms of international trade disputes as well. Could Canada clarify the ambit of the Canadian International Trade Tribunal?*

The Canadian International Trade Tribunal (CITT) is an independent quasi-judicial body and is not part of any federal government department or agency. It carries out its responsibilities in an open, fair, and impartial manner.

The Tribunal reports to Parliament through the Minister of Finance. Several acts of Parliament give the Tribunal powers to carry out its mandate. The primary sources of Canadian law governing the work of the Tribunal are as follows:

- the Canadian International Trade Tribunal Act (CITT Act) and its Regulations;
- the Canadian International Trade Tribunal Rules;
- the Special Import Measures Act (SIMA) and its regulations;
- the Customs Act and the Customs Tariff; and
- the Excise Act.

The Tribunal's mandate covers both judicial and advisory functions. It:

- conducts inquiries into whether dumped or subsidized imports have caused, or are threatening to cause, material injury to a domestic industry;
- hears and decides appeals of Revenue Canada decisions made under the Customs Act, the Excise Tax Act and SIMA;
- conducts inquiries and provides advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance;
- investigates requests from Canadian producers for tariff relief on imported textile inputs that they use in their production operations;



- conducts safeguard inquiries into complaints by domestic producers that increased imports are causing, or are threatening to cause, serious injury to domestic producers; and
- conducts inquiries into complaints by potential suppliers concerning procurement by the federal government that is covered by NAFTA, the WTO Agreement on Government Procurement (GPA) and the Agreement on Internal Trade (AIT).

Information relating to the Canadian International Trade Tribunal is available on the official website of the Tribunal. The CITT site address is: [www.citt.gc.ca](http://www.citt.gc.ca).

#### Question from Switzerland

2. *In the reply to question 14(v) in the Checklist of Issues, it is mentioned that the government institution required to implement the Tribunal's recommendations, if intending not to fully implement them, must notify the Tribunal of the reasons for not doing so. This wording suggests that the recommendations of the Tribunal are not of a binding character. Could Canada clarify the discretion left to the procuring government entity?*

A determination made by the Tribunal may consist of recommendations to the government institution (such as re-tendering, re-evaluation or providing compensation). The Tribunal may also award reasonable costs to a complainant to cover expenses for bid preparation and for the bid challenge. The Tribunal may also award costs incurred in participating in proceedings relating to a complaint. The government institution and all other parties are notified of the Tribunal's decision.

Recommendations made by the Tribunal in its determination are to be implemented to the greatest extent possible. In the event the government institution involved in the procurement cannot implement the recommendations of the Tribunal, it must notify the Tribunal of the reasons for not doing so. A decision not to implement on the part of the government institution can be appealed to the Federal Court. The Federal Court has indicated that the provisions regarding implementation of the recommendations of the Tribunal are intended to make non-compliance "an unusual occurrence".

#### Question from Switzerland

3. *Is there any institution or body (besides the CITT) monitoring the enforcement of the GPA? Could Canada explain the kinds of action the Federal Cabinet is empowered to take in furtherance of administering Canada's activities under the WTO Agreement?*

The Canadian International Trade Tribunal (CITT) does not monitor the enforcement of the GPA. The Tribunal receives complaints from potential suppliers regarding the federal government procurement process. Once the Tribunal has received a complaint, it then determines whether the government institution responsible for the procurement under review has met the requirements of international and national trade agreements and Canadian legislation. Decisions of the Tribunal may be appealed to the Federal Court of Canada.

With respect to the Federal Cabinet, the Prime Minister appoints the Cabinet from amongst elected Members of Parliament of his or her party. Each Cabinet Minister is given responsibility for a department of the government. Ministers represent their portfolios in the House of Commons and table legislation affecting their departments as necessary. They are accountable to the House for all actions carried out in their name or by their department because, under Canada's Constitution, this is where elected officials are made responsible to the citizens of Canada.

Further information on the structure of the Canadian government and its executive branch is available at the Parliamentary Internet: [www.parl.gc.ca](http://www.parl.gc.ca).

Question from the United States

4. *Please indicate whether Canada's responses to the questions contained in Section III of the Checklist (Challenge Procedures) apply to covered sub-central entities, including the Federal enterprises listed in Annex 3. If not, please provide responses to those questions, and to the United States' questions 6 and 7 below, with respect to covered sub-central entities.*

Please see the response to Questions from The United States" No. 1 on scope and coverage, above.

Question from the United States

5. *Canada's response to the availability of challenge procedures as set forth in paragraph 3 of Article XX of the GPA cites the "Procurement Review Process - A Descriptive Guide", January 1996, as being provided to the WTO. Please describe how this guide and other forms of Canada's challenge procedures are disseminated to the public.*

The guide titled "Procurement Review Process - A Descriptive Guide" along with other documents outlining the details of Canadian challenge procedures are widely disseminated and are accessible through the Internet at the official website of the Canadian International Trade Tribunal. The CITT site address is: [www.citt.gc.ca](http://www.citt.gc.ca).

Other documents relating to Government procurement such as "Information of Procurement Review" and "Canadian International Trade Tribunal - Procurement Cost Guidelines" are also available on the CITT website.

Tribunal documents are also available through the CITT's Factsline which is accessed via a telecopier telephone or by contacting the Tribunal directly and requesting the desired publication.

Question from the United States

6. *Canada states that rapid interim measures are available to correct breaches of the GPA and that those measures include the possibility of suspension of the procurement process, unless a government entity certifies in writing that "the procurement is urgent or that a delay in awarding the contract would be contrary to the public interest." Please explain how those exceptions ("urgent" and "contrary to the public interest") are defined in Canada's applicable laws, regulations and other policy instruments, and whether the certification (of urgency or need for a delay) is subject to internal review or whether it is a unilateral decision.*

The terms "urgent" and "contrary to the public interest" are contained in the Canadian Trade Tribunal Act Article 30.1 (3) subsection 4. In the event that the government procuring entity believes that the "the procurement is urgent or that a delay in awarding the contract would be contrary to the public interest" and makes certification to that effect in writing to the Tribunal, then the Tribunal will accept the certification of the procuring entity.

Question from the United States

7. *In response to the question on rapid interim measures available to correct breaches of the Agreement, Canada stated that "[a]ny party to a procurement complaint proceeding may request that the Tribunal consider the feasibility of using the 'express option' procedure..." Please explain what factors may be taken into account in considering the feasibility of such rapid interim measures.*

As stated in Canada's Checklist of Issues, the accelerated procedure or the 'express option' may be warranted in reviewing possible breaches to the Agreement. Any party may request the use of the express option, provided that the request is made in writing and submitted to the Tribunal no later than three days from the filing of the complaint. The Tribunal will decide within two days of receiving the request whether the case is suitable for the express option, taking into consideration the reasons for the request, the complexity of the case and the workload of the Tribunal.

When the express option is used, the normal time-limits for submission of the various reports and comments and issuance of the Tribunal's determination are compressed. Under the express option, the Government Institution Report must be filed within ten days of the government institution being notified by the Tribunal that the express option will be used. The complainant's and intervener's comments on the Government Institution Report must be filed with the Tribunal within five days of the report being sent to the complainant by the Tribunal, and the Tribunal's determination must be issued within 45 days of the filing of the complaint.

Question from Switzerland

8. *Is there any practice establishing a tool for the rapid and informal solution of problems encountered by suppliers and service providers in getting access to public contracts outside judicial review?*

With respect to the question of a rapid and informal solutions, a potential supplier or service provider with an objection is encouraged initially to try to resolve the issue with the government institution responsible for the procurement. If this process is not successful or a supplier chooses to deal directly with the Tribunal, the supplier may do so by filing a written complaint in accordance with CITT's regulations. As stated in the Regulations Respecting Canadian International Trade Tribunal Inquiries into Potential Suppliers' Complaints Concerning Government Procurement, Article 6(2):

"A potential supplier who has made an objection regarding a procurement relating to a designated contract to the relevant government institution, and is denied relief by that government institution, may file a complaint with the Tribunal within ten working days after the day on which the potential supplier has actual or constructive knowledge of the denial of relief, if the objection was made within ten working days after the day on which its basis became known or reasonably should have become known to the potential supplier."

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