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**Monday, May 15, 2006**

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**Chair**

**Mr. Brian Pallister**

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## Standing Committee on Finance

Monday, May 15, 2006

• (1535)

[English]

**The Chair (Mr. Brian Pallister (Portage—Lisgar, CPC)):** Welcome, guests and committee members. It's nice to see you.

Pursuant to Standing Order 81(4), main estimates 2006-2007, vote 25 under Canadian International Trade Tribunal, referred to the committee on Tuesday, April 25, 2006, I call vote 25.

I welcome our guests today, Messrs. Gosselin and Greig. I invite them to proceed with any introductory comments they might wish to make and then we'll follow with questions.

Who would like to proceed?

Monsieur Gosselin. Thank you, sir.

[Translation]

**Mr. Pierre Gosselin (Chair, Office of the Chairman, Canadian International Trade Tribunal):** Good afternoon, Mr. Chairman. I am pleased to appear before this committee and to answer your questions.

My name is Pierre Gosselin, I am chair of the Canadian International Trade Tribunal. I am accompanied today by Mr. Sandy Greig, Director General of the Research Branch.

Before answering your questions, I would like to give you a short overview of the tribunal's mandate and challenges. It is an administrative tribunal and is part of Canada's system of trade redress mechanisms. It is a quasi-judicial and arm's length organization which carries out its responsibilities in an impartial and autonomous fashion. The tribunal comes under the jurisdiction of Parliament, through the Minister of Finance.

The tribunal is currently comprised of seven members. Each member is appointed by order in council for an indeterminate period. The members of the tribunal are supported by a team of 87 employees. The tribunal's main officers are the Secretary, the Director General of Research, the General Counsel and the Director of Corporate Services.

We have a \$10 million budget of which the lion's share is allocated to wages.

Our workload is entirely generated by complaints and cases filed with the tribunal or referred by the Governor in Council or the Minister of Finance. Most of the cases we deal with are subject to very tight legal timeframes.

Our mandate includes investigating complaints and providing our opinion on economic trade and tariff matters referred to the tribunal by the Governor in Council or the Minister of Finance. As part of our quasi-judicial role, we conduct investigations to determine whether domestic industry is suffering hardship due to dumping or the subsidizing of certain products. We hear appeals concerning the Canada Border Services Agency's decisions, the CBSA, pursuant to the Customs Act, and the National Revenue Minister's decisions under the Excise Tax Act.

We investigate complaints lodged by potential suppliers concerning federal procurement subject to NAFTA, the AIT, and the AGP. You know NAFTA. The AIT is the Agreement on International Trade and the AGP is the WTO's Agreement on Government Procurement. We conduct safeguard investigations to determine whether the rapid increase in imports, whether from all countries or specifically China, is hurting our domestic producers. The tribunal's decisions are binding in relation to complaints concerning hardship or appeals of CBSA's decisions and procurement. As far as China-specific or general safeguard investigations are concerned, the tribunal hands down a judicial determination of hardship and, upon request, may make recommendations concerning applicable redress, if need be.

The tribunal also plays an advisory role to government by conducting general investigations on economic matters and references, especially in the following cases: safeguard measure cases where the tribunal finds there is hardship or where the Governor in Council may ask for recommendations on measures to mitigate this hardship; general investigations on economic and tariff matters which are referred back by the government or finance minister and, lastly, in accordance with permanent references on tariffs, investigations on applications made by producers demanding tariff reductions for textiles they import in the course of their production activities.

• (1540)

[English]

The tribunal's workload is, for the most part, externally generated. Our main challenge is to allocate our limited resources in such a way as to ensure the statutory deadlines are always met, and that the quality of the tribunal's findings, determinations, and recommendations is not compromised. The tribunal has a single strategic outcome and two activities. The strategic outcome is the fair, timely, and effective disposition of international trade cases and government-mandated inquiries in various areas of the tribunal's jurisdiction.

The first activity is the adjudication of trade cases. The bulk of our budget is allocated to this activity—that is about \$9.9 million out of a total of \$10 million. The second activity is general economic inquiries, which include inquiries referred to it by the government, or tariff inquiries referred by the Minister of Finance.

Again, the tribunal strives to ensure that tribunal decisions are fair and impartial and published in a timely way.

[*Translation*]

I would like to give you a brief overview of the legislative provisions under our act which deal with confidential business information and the procedures implemented by the tribunal to protect this information while, to the greatest extent possible, ensuring the process remains open and accessible to all parties and their legal counsel.

Given the nature of the matters we deal with, parties must submit confidential commercial information. If such information were revealed to a competitor, there may be considerable adverse financial ramifications.

The Canadian International Trade Tribunal Act regulates the designation of confidential information and the necessary sanctions in case of disclosure. The tribunal has implemented a system by which only lawyers who table a deed of covenant before the tribunal may have access to this information. These lawyers must, among other things, undertake to not disclose the information they obtain from other parties to their clients and they must destroy all information at the conclusion of a case. Protecting confidential business information is the cornerstone of the commercial redress system. The tribunal ensures that all parties maintain their confidence in the system.

[*English*]

You've been provided with our annual report for 2004-05. The annual report for 2005-06 should be tabled in Parliament before June 30.

I've been asked to address our 2004-05 annual report, and I will add a brief overview of the last fiscal year.

Both 2004-05 and 2005-06 were busy years for the tribunal. In 2004 we had a record number of unfair trade cases, coupled with the receipt of three safeguard complaints. A safeguard complaint typically represents the equivalent of several unfair trade cases in terms of its size and complexity. The range of issues to address are broader, and cases are larger and also require substantial preliminary analysis prior to our making a decision to accept the case for inquiry, and once the safeguard case is accepted, both an injury analysis and a remedy analysis have to be undertaken within tight legislative timeframes.

We also received in 2004-05 two textile references from the Minister of Finance. We received 62 procurement complaints, as well as 149 appeals.

In 2005-06 we received somewhat fewer unfair trade cases, but we worked on two large textile references. We also continued our work on the two safeguard cases we had received the previous fiscal year and considered two new safeguard complaints received in the fiscal year. We received 58 procurement complaints and 96 appeals.

As a final point, I would like to mention some initiatives the tribunal is taking to improve accessibility and to reduce administrative burden to the public.

We publish and archive all our decisions—in fact, beginning in 1989—as well as our statements of reasons, on our website. The site is equipped with a search engine to allow people to search the precedents.

All notices are placed on our website, and subscribers are advised by a “what's new” type of e-mail. Our questionnaires, which are the main instrument we use for collecting information in a case, are available on our website, and parties will soon be able to use a secure electronic channel to complete those online. We will shortly also be making a public version of cases available to the parties involved. That file will also be searchable and constantly updated throughout the case.

Those are my opening remarks. I'm prepared to answer questions.

● (1545)

[*Translation*]

**The Chair:** Thank you for your presentation. The first member of the committee to speak will be Mr. Pacetti.

You have seven minutes.

**Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.):** Thank you, Mr. Chairman, Mr. Gosselin, Mr. Greig.

[*English*]

In your opening statement, did you say the Minister of Finance or the Department of Finance are the people who refer the cases to your department...or is it an agency?

**Mr. Pierre Gosselin:** No, what I said was that the Minister of Finance can refer cases involving an inquiry on tariff matters, and all other safeguard types of inquiries come from the Governor in Council or can be filed directly by the interested parties. Also, inquiries of a general economic nature can be sent to us by the Governor in Council, not by the Minister of Finance.

**Mr. Massimo Pacetti:** But third parties or associations can send files over to you. Is that correct?

**Mr. Pierre Gosselin:** Well, let me be clear. We have to know which kind of case we're dealing with to determine who can do what. If we're dealing with private matters such as complaints of dumping, complaints of subsidy, or complaints under procurement, those are private, and the parties involved file the cases themselves. If it's a safeguard inquiry—and a safeguard inquiry is one where the industry complains that imports have increased at such a rapid rate that they can't compete—they either ask the government to file the case for them or they come directly to the tribunal.

**Mr. Massimo Pacetti:** Why would the government file on their behalf?

**Mr. Pierre Gosselin:** First of all, the legislation provides for that. The government can support the domestic industry's complaint that imports are damaging and they therefore ask us to undertake an inquiry to determine whether there is injury.

**Mr. Massimo Pacetti:** So in the example prior to that, you're saying if it's a procurement or if it's based on—

**Mr. Pierre Gosselin:** If it's a procurement, they come directly to us because that's a private matter, or in a dumping case, let's say a particular industry complains that imports from a particular country or group of countries are unfairly being sold in—

• (1550)

**Mr. Massimo Pacetti:** Excuse me, but we only have seven minutes, and what you're saying leads me to another question, because I'm not sure I understand how the structure works. Who pays for the fees? How does the \$9.9 million of budget get allocated, or how do you distribute it? If somebody from the private sector comes and makes a complaint, who picks up the cost? I don't see any of that breakdown anywhere.

**Mr. Pierre Gosselin:** First of all, the tribunal does not collect or charge fees for hearing a case. So the short answer to your question is that it's the government that picks up the tab for the costs of operating the tribunal.

**Mr. Massimo Pacetti:** Somebody has to defend it or prosecute the case.

**Mr. Pierre Gosselin:** The private parties will cover their own costs to come before the tribunal, yes. So both sides will be represented, just like in court, and we will adjudicate the case.

**Mr. Massimo Pacetti:** So if it's an excise tax question regarding duties, you would have somebody from CCRA coming in to defend their...?

**Mr. Pierre Gosselin:** Yes, normally represented by the Department of Justice.

**Mr. Massimo Pacetti:** And that cost would not be picked up by your agency?

**Mr. Pierre Gosselin:** Not by us.

**Mr. Massimo Pacetti:** Not by you. So the \$9 million is just to conduct the hearings themselves.

**Mr. Pierre Gosselin:** That's right.

**Mr. Massimo Pacetti:** You also spoke about statutory deadlines, that one of the objectives is to maintain statutory deadlines. What does that mean?

**Mr. Pierre Gosselin:** It means that under most of the types of cases we handle, we have statutory deadlines that cannot be exceeded. To give you an example, in a dumping case we have 120 days in which to hear the case, arrive at a decision, and publish our statement of reasons; the same is true in a subsidy case. In a safeguard case, usually the request that comes to us from the Governor in Council will contain time limits, which can be maybe 150 days from beginning to end, but that really depends on the particular order in council.

**Mr. Massimo Pacetti:** Does that mean that from the time the case starts or once the case is terminated you have, whichever it is, 120 or 150 days?

**Mr. Pierre Gosselin:** No, this is from beginning to end. This is from the day it's filed.

**Mr. Massimo Pacetti:** How do you control that both parties will not try to defer, or postpone, or...?

**Mr. Pierre Gosselin:** We control our own procedures. We set the time limits for them to provide evidence, to respond to the other party's evidence. We set the time available for a hearing, etc. It's a very tightly controlled process.

**Mr. Massimo Pacetti:** I have one last question. On the \$9.4 million for last year, do we see that anywhere in the annual report, what the breakdown is, how much each court case or each request would cost?

**Mr. Pierre Gosselin:** No, we do not.

**Mr. Massimo Pacetti:** Would we be able to take, for example, the cost of 78 cases and then divide it evenly, or do some cases take more than others?

**Mr. Pierre Gosselin:** No. Unfortunately, that's not a very good measure, and we are struggling with this to try to arrive at some way of measuring this, because you can have very simple cases or you can have very complex cases. Recently we had a case involving an agricultural product where we had 25 different parties appearing before the tribunal, with lawyers and everything else, all within the same time limit. What it meant is we at the tribunal, to digest this information and to ensure that the process—

**Mr. Massimo Pacetti:** That goes back to my previous question. So there, in that specific case, you had 25 people intervening. Did you know ahead of time you were going to have 25 and know exactly how long the hearings were going to be?

**The Chair:** I'm sorry to interrupt, but we only have time for a short answer. We're out of time for Mr. Pacetti.

**Mr. Pierre Gosselin:** No, we don't know until people file a notice of appearance.

**Mr. Massimo Pacetti:** That's a short answer.

**The Chair:** Yes. *Merci, monsieur.*

Monsieur St-Cyr.

[*Translation*]

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** There are two subjects I'd like to talk about. First, I'd like to continue the discussion on procedure. If I've understood correctly, requests may come from the Governor in Council or from companies which believe they have been adversely affected due to dumping, for example.

• (1555)

**Mr. Pierre Gosselin:** That depends entirely on the type of case. Cases of dumping and countervailing duties are private matters. The government, therefore, does not intervene.

**Mr. Thierry St-Cyr:** In that case, are the companies themselves the only entities to be able to intervene, or can third parties, for example unions, also make such requests?

**Mr. Pierre Gosselin:** All interested parties may make representations.

**Mr. Thierry St-Cyr:** I see. Do interested third parties often make such requests?

**Mr. Pierre Gosselin:** Union representatives sometimes come forward and support one side or the other. It doesn't happen often, but in the case of consumer goods, retailers sometimes frequently intervene, because the action we take may have an impact on their activities.

**Mr. Thierry St-Cyr:** Third parties can only intervene at a hearing at some point in the process, but they cannot request an investigation per se, is that right?

**Mr. Pierre Gosselin:** They can request an investigation as industry representatives.

**Mr. Thierry St-Cyr:** So, only industry can request an investigation. A union could not call on the Tribunal to rule on any given matter.

**Mr. Pierre Gosselin:** It could do so if it represented the industry. For example if it had the support of the producers on whose behalf it worked, the two could lodge a complaint together.

**Mr. Thierry St-Cyr:** I see.

Last September, you rendered a decision on inexpensive bikes. You suggested countervailing duties.

Could you explain this decision to the committee?

**Mr. Pierre Gosselin:** I can, but only the broad brush strokes, as the tribunal doesn't usually explain its decisions, aside from listing the grounds upon which a decision was made.

The tribunal was seized with the case and conducted an investigation. It found there was hardship and recommended a number of measures. We forwarded these recommendations to the government, and that marked the end of our mandated involvement in the case. The onus is now on the government to respond.

**Mr. Thierry St-Cyr:** To your knowledge, did the government follow-up on these recommendations?

**Mr. Pierre Gosselin:** Not yet.

**Mr. Thierry St-Cyr:** Is that normal? Does it usually take some time before your decisions or recommendations are implemented? Does it often happen that they are never implemented, or is that specific to this case?

**Mr. Pierre Gosselin:** There again, it depends on the type of case. Safeguard cases are quite rare at the tribunal. I think that we have dealt with four or five since 1989. So the government takes whatever time it needs to respond. There is no set deadline.

**Mr. Thierry St-Cyr:** So, the subject of this case was a safeguard request. Was the instigator of the investigation the government itself?

**Mr. Pierre Gosselin:** No, it was the bicycle industry.

**Mr. Thierry St-Cyr:** So the industry requested the investigation, and you have submitted your recommendations to the government. So far, there has been no response.

**Mr. Pierre Gosselin:** There is nothing to report.

**Mr. Thierry St-Cyr:** Thank you.

**The Chair:** You have seven minutes, Ms. Ablonczy.

[English]

**Ms. Diane Ablonczy (Calgary—Nose Hill, CPC):** Thank you, Mr. Chairman.

Thank you very much, gentlemen, for trying to shed some light on a very complex area.

I note that in the estimates the funding for your tribunal is rising by nearly 5%. Could you tell the committee and Canadians why this

increase is being made and what value you expect to be delivered for the increase in funding?

• (1600)

**Mr. Pierre Gosselin:** As far as I know, the increase reflects the wage settlements that the government has made. In other words, our budget has not increased; indeed, our budget has not increased for seven or eight years. The only increases have been to take into account collective agreements.

**Ms. Diane Ablonczy:** In other words, this increase is going towards salaries for the individuals working in the agency.

**Mr. Pierre Gosselin:** That's right.

**Ms. Diane Ablonczy:** Then tell us this—and you're going to love me for this. As your budget hasn't gone up for five or six years, would it be in order for that to be considered at some point, or are you able to carry out your responsibilities fairly well with the funding that's in place?

**Mr. Pierre Gosselin:** In another forum, we have approached the question of an increase in budgetary resources for some projects that we wanted to undertake. The complexity of the cases we are dealing with is increasing, and we were looking for some additional resources to hire some staff.

**Ms. Diane Ablonczy:** For example, in the estimates between 2005-06 and 2006-07, I notice there is actually a reduction of nearly 20% for economic inquiries and references. It's a fairly hefty reduction. Could explain that?

**Mr. Pierre Gosselin:** I should explain how we operate.

Because we have a large number of mandates and we are a relatively small tribunal, first of all, we never set aside a person or a researcher who does only one type of case. We can't predict how many of those kinds of cases we will have this year or how many inquiries, how many safeguards, or how much dumping there will be. All the members sit on all types of cases, and all the researchers handle all types of cases.

This separation between the two mandates is a little artificial. In recognition of that, we have kept only the part that is a purely economic inquiry for the second type of activity. We put all the other types of cases in the same item, because everybody at the tribunal works on those in any event. It's very difficult to separate these things.

**Ms. Diane Ablonczy:** That makes sense.

The world and the global marketplace are quickly changing. For example, some of the emerging countries are able to manufacture things more cheaply than Canada can. Of course there are commodity price fluctuations, fluctuations in the value of the dollar, and all of those things.

How does that have an impact on your work? Do you find more demand for your opinions because more issues are coming up? Has it always been this way, with a lot of issues but different issues? Tell us how your work is changing and evolving or if it is changing and evolving.

•(1605)

**Mr. Pierre Gosselin:** I've been at the tribunal now for seven or eight years. I've posed that question to myself throughout that period to try to predict our workload for the coming year, and we are never very successful. At the beginning I thought it followed the business cycle; therefore, when things were turning down, more people would come forward. But it doesn't seem to follow much of a pattern.

I think it's fair to say that while we may have a smaller number of unfair trade cases, the ones we get are very large and complex.

**Ms. Diane Ablonczy:** Are you finding that new skills are needed for your staff, or do you simply do on-the-job training and upgrading? Tell us how you do that.

**Mr. Pierre Gosselin:** We do a great deal of training in-house, not only of the staff but also of the members. We have a constant review process, in which we train our staff and members on aspects of our mandates.

**Ms. Diane Ablonczy:** So it sounds like dull work, but it really isn't.

**Mr. Pierre Gosselin:** Well, I don't think it is.

**Ms. Diane Ablonczy:** Thank you, Mr. Chairman.

**The Chair:** Madam Wasylycia-Leis.

**Ms. Judy Wasylycia-Leis (Winnipeg North, NDP):** Thank you, Mr. Chairperson.

Thank you, Mr. Gosselin and Mr. Greig.

I'm interested in trying to trace developments pursuant to your tribunal over a period of time. First, in what year did this tribunal get established?

**Mr. Pierre Gosselin:** It was established in 1989.

**Ms. Judy Wasylycia-Leis:** Was it in response to the Canada-U.S. trade agreement?

**Mr. Pierre Gosselin:** No, I think it was in response to the government's desire to bring together a number of small tribunals. There were three: a customs tribunal, a textile and clothing board, and a tribunal that dealt with dumping issues.

Then after the FTA, we were also given the mandate to handle government procurement complaints, so it's really a bringing together of four. That's why the mandates that we have are so diverse.

**Ms. Judy Wasylycia-Leis:** Can you give us a sense of the change in the trend line vis-à-vis countries to which complaints are directed? Can you table us any stats in terms of the number of complaints, number of adjudications, and by sector and country?

**Mr. Pierre Gosselin:** I'm afraid we don't break it out that way. We do it by cases. A case can involve one country or a multiplicity, but we don't break it out by geographic area.

The only geographically related type of case we have concerns the special safeguards for China, which came as a result of China's accession to the WTO—and that's a time-limited provision. We've only had two complaints and one case under the China safeguards.

**Ms. Judy Wasylycia-Leis:** Is there a particular area or sector of the economy where you see more complaints than others? For

example, does the textile area still have issues of considerable activity vis-à-vis complaints and adjudication?

**Mr. Pierre Gosselin:** I would say there are two or three areas. One is the steel industry, in which we've had many cases of dumping and subsidy complaints from the Canadian steel industry in past years. We have also had a large number of agricultural complaints.

**Ms. Judy Wasylycia-Leis:** Of what nature were they?

•(1610)

**Mr. Pierre Gosselin:** The most recent is the complaint on grain corn from the United States. It was a dumping and subsidy complaint.

We've had potatoes, apples, raspberries, garlic—quite a salad.

We've done quite a bit of work on textiles in the last few years as well, because the Minister of Finance gave us a standing reference to provide advice when domestic clothing producers were requesting tariff relief on their inputs. Those would be individual cases.

We've also received a number of broad references on textiles from the minister in the last two years.

**Ms. Judy Wasylycia-Leis:** Can you give us an idea of how many requests for advice you might get from the government or the Minister of Finance on a yearly basis, and what kinds of inquiries?

**Mr. Pierre Gosselin:** I'm sorry, on a yearly basis?

**Ms. Judy Wasylycia-Leis:** Or whatever makes sense, to break it down.

**Mr. Pierre Gosselin:** As I said, we've had three textile references from the Minister of Finance in the last two years, one that was particularly broad because it touched all the textile chapters of the tariff and touched on maybe 570 or 580 tariff lines.

We also have a standing reference that he sent us some time ago where we have looked at individual requests for tariff relief by garment producers who wanted access to lower-cost inputs. Those come to us. I think we've had maybe 15 or 20 over the last five or six years since that reference was put in.

These numbers, by the way, are all in the annual report. I may be inaccurate, but the annual report is accurate.

**Ms. Judy Wasylycia-Leis:** This is a weird question, I suppose, but I'd like to know whether or not we're winning as Canadians vis-à-vis trade issues and concerns about fairness in this whole area of international trade. When you look at the number of complaints you deal with, do we succeed through the tribunal in getting justice to the satisfaction of Canadians, and what percentage of the time? What are the consequences or what measures can you take to ensure that justice is handed out?

**The Chair:** I'M sorry, this is all the time we have. If it's possible to answer that question briefly, please proceed. If not, we'll go to the next questioner.

**Mr. Pierre Gosselin:** I don't think it's possible to answer it very quickly.

**The Chair:** Very well, we'll go to Mr. Pacetti.

Your question, sir.

**Mr. Massimo Pacetti:** You can use up some of my time. I'd like to hear the answer to that.

Basically, what will happen even if the decision is rendered? If there is a foreign party involved, what is your mandate? What are your enforcement powers? How do you enforce the decision?

**Mr. Pierre Gosselin:** Once again, it depends entirely on what kind of case we're talking about. If it's a dumping or subsidy case, the CBSA has already determined that there is a percentage of a margin of dumping or a degree of subsidy, and that's expressed in percentage terms. If we find injury on that complaint, then automatically the CBSA will apply that tax.

**Mr. Massimo Pacetti:** Who is the CBSA?

**Mr. Pierre Gosselin:** It's the Canada Border Services Agency. So it will be an additional tax imposed on imports of that particular product. That's automatic.

**Mr. Massimo Pacetti:** But if there's something that's retroactive, do you have any fining powers, or can you go and get money retroactively if a decision were to be rendered in that vein?

**Mr. Pierre Gosselin:** It's not retroactive beyond the reach of the complaint—in other words, when the complaint is filed. So the moment the Canada Border Services Agency finds that there is dumping or subsidy, they will impose a preliminary duty, if we find that there is preliminary entry.

• (1615)

**Mr. Massimo Pacetti:** So if they've been dumping for the last three or four years, there wouldn't be any action taken against them.

**Mr. Pierre Gosselin:** No. It doesn't reach back.

**Mr. Massimo Pacetti:** Again, on the money issue, I just don't understand how we can't know how the department is run. I had asked you previously whether you know ahead of time, before you start a certain process, whether it's going to take a week, two weeks, or 120 days.

My subsequent question was, where you have 25 people who are probably going to intervene in a case and you only find out just before you start that case—I don't want to put words in your mouth—how do you budget for that? How do you know what you're going to spend? We have no idea what you're spending on. Can we get percentages?

**Mr. Pierre Gosselin:** This is a dilemma, sir, because—

**Mr. Massimo Pacetti:** For you or for us?

**Mr. Pierre Gosselin:** For us, because we never know if...

We know, for instance, that if a case on corn is going to be filed, there will be a great deal of interest; a lot of people have already made their presence known at Canada Customs, because they do the first part of the case. So we can have an idea that this is going to be a big case, but we don't know with any degree of precision until they file a notice of appearance.

**Mr. Massimo Pacetti:** I understand that, but we could at least get some detail of what happened in the past. There are no numbers in your report here. We can't tell what is costing what.

**Mr. Pierre Gosselin:** We don't cost individual cases, sir.

**Mr. Massimo Pacetti:** So how can we determine how the money is being spent?

**Mr. Pierre Gosselin:** We've been set up to receive every case that is filed. Whether this year we have 100 cases and next year we have 200 cases, we have to deal with all of those cases within the time limits provided. If that requires that people work overtime, that's what we do. The legislation doesn't allow us to be late. We are always on time.

**Mr. Massimo Pacetti:** There's no additional staff hired, or subcontractors, or...?

**Mr. Pierre Gosselin:** Sometimes, yes. In those kinds of instances, if we have an unexpectedly large draw and we are doing a case for a particular department, we can ask for additional resources in those cases.

**Mr. Massimo Pacetti:** If there are additional resources required or needed, where would we see that? We wouldn't see it anywhere?

**Mr. Pierre Gosselin:** We didn't ask for any, this year or last.

**Mr. Massimo Pacetti:** But how do we know that the amount of money you need this year is what you need if we don't know what you spent it on last year?

**Mr. Pierre Gosselin:** We know exactly what we spent it on last year; you have the list of the cases we dealt with. We cannot adjust the number of employees we have by the number of cases we get—

**Mr. Massimo Pacetti:** Is there any way we can get a breakdown of major categories? We don't need it by detail, but is there anything you can provide us with that has numbers in it, in terms of—

**Mr. Pierre Gosselin:** Could you give me the—

**The Chair:** We're out of time for Mr. Pacetti's questions, but I'd like to follow up on his line of inquiry, if I could.

I'd like to give you an opportunity to elaborate on what the cost determinants are. You've talked about time. Perhaps you could repeat your earlier statements in terms of time.

Let's use the corn dumping case as an example. You began with a predetermined timeframe for that case to be investigated by your tribunal, is that correct?

**Mr. Pierre Gosselin:** That's correct. That's in the legislation. We have 120 days plus 15 days.

**The Chair:** You alluded in your answers to the difficulty of actually breaking down the costs, but surely we could deal here with what the relative determinants of those costs internally would be. For example, some cases would be more intense than others within that timeframe. I would suppose that one of the cost drivers would be the amount of staff hours required to deal with a particular case. Would that be so?

**Mr. Pierre Gosselin:** That's correct.

**The Chair:** So are there other determinants? Could you elaborate a little bit on those for Mr. Pacetti and for the committee?



**Mr. Pierre Gosselin:** One of the determinants we've had in the past and that has driven costs has been the size of the file. The file has to be provided to all the parties in a particular case, so a lot of reproduction costs are involved.

In the corn case, as an example, we had to use both of our hearing rooms. The number of people involved was too large for us to be able to use only one hearing room. We had to rent some additional electronic equipment so that there would both a video and audio feed in the other room. Those kinds of things are extraordinary expenses. By and large, however, the hearing room is provided for because it's already in our facilities. The staff is already there. We just assign more or fewer people to a particular case.

If we have the unfortunate circumstance of having a large number of large cases all happening at the same time, then maybe we'll be a little bit thinner on the ground on the research side or in some other aspects of the case.

• (1620)

**The Chair:** Thank you.

We'll move on to Madame Brunelle, *s'il vous plaît*.

[*Translation*]

**Ms. Paule Brunelle (Trois-Rivières, BQ):** Good afternoon. If you tell us that you need a budget increase of about 5 per cent because the cases are increasingly complex, I can understand. With globalization and emergent economies, such as China, I'm sure that you will have more and more work. In fact, it seems that we are reaching a period where the harm has been done. Let me take the example of the textile industry in my riding, where all the factories have been completely closed down.

Is there any visioning work done in the context of your job? Do you consider which will be the next industries to be targeted by safeguard measures? Are you able to assess that so that the Canadian economy can perhaps prepare itself accordingly?

**Mr. Pierre Gosselin:** You raise two points. First, we have not asked for an increase. The 5 per cent you see is to pay the costs associated with the collective agreement. This is not a real increase.

Second, we have a mandate to deal with cases. If we're not asked to conduct an investigation, we cannot undertake one on our own. Consequently, we have to be given a mandate to study certain matters.

**Ms. Paule Brunelle:** So there is no organization in Canada with a mandate to try to see how we can adapt the economy to the new realities.

Do you rely on university research chairs or other organizations of this type?

**Mr. Pierre Gosselin:** I cannot answer that question. All I know is that we do not do this.

**Ms. Paule Brunelle:** That is not your mandate.

Thank you.

**The Chair:** Mr. Harvey.

**Mr. Luc Harvey (Louis-Hébert, CPC):** What is the dollar value of the imports that come under your jurisdiction?

**Mr. Pierre Gosselin:** We have not done that calculation. We look at cases one at a time, but we have not added up the dollar value of the cases we have dealt with over a particular year.

**Mr. Luc Harvey:** So you cannot tell me what the percentage figures are for the section for which you are responsible. I suppose you don't have any idea about that either.

**Mr. Pierre Gosselin:** We could say that under certain conditions, all imports could be subject to the tribunal.

**Mr. Luc Harvey:** How much money are we talking about? It must be hundreds of billions of dollars.

**Mr. Pierre Gosselin:** Yes.

**Mr. Luc Harvey:** You said that you had 78 requests for review last year. Those were requests that came from companies or associations which thought there was a dumping or improper trade practice.

• (1625)

**Mr. Pierre Gosselin:** No. I believe there was confusion. The figures we can give you...

**Mr. Luc Harvey:** How many requests did you receive this past year?

**Mr. Pierre Gosselin:** Concerning dumping and countervailing duties, for 2005-2006, we heard 18 cases, 234 appeals, 9 safeguard enquiries and 67 complaints on government contracts. That totals 328 cases.

**Mr. Luc Harvey:** Do you think that number is high or low, in proportion to Canada's total imports?

**Mr. Pierre Gosselin:** It is low.

**Mr. Luc Harvey:** Why do you think it is low? Is it because your organization is not well known? Is it because people do not know they can file a complaint? What explains it?

**Mr. Pierre Gosselin:** I think that is a small percentage of Canada's total trade is affected because in most of business deals, people do not complain. We are increasingly moving towards free trade and people believe that they do not have any reason to complain.

**Mr. Luc Harvey:** Your mandate is to take on a more reactive role, rather than a proactive one. Do you think it would be useful to have an emergency intervention team ready to decide on which types of businesses or industries should be subject to an inquiry or a review, in order to determine whether or not there was dumping?

**Mr. Pierre Gosselin:** No. We are only able to react after the fact, because that is our mandate.

**Mr. Luc Harvey:** Would you like it to remain that way?

**Mr. Pierre Gosselin:** I cannot answer that question. It has no bearing.

**Mr. Luc Harvey:** In your opinion, would it be useful to create such a team?

**Mr. Pierre Gosselin:** The evolution of the global economy, as shaped by the WTO and bilateral accords, is reflected in what we do. I do not believe that an emergency team is required.

**Mr. Luc Harvey:** I am asking you that question because you predict a 20 per cent decrease in requests for inquiries for the years 2005-2006 and 2006-2007. If you think that there are not enough cases and you forecast an additional 20 per cent reduction in the number of cases, it is because something is going on.

**Mr. Pierre Gosselin:** As I explained to your colleague earlier, it is excessively difficult to predict the outcome of the cases that will be heard by the tribunal.

[English]

**The Chair:** Thank you.

There's time for just a quick question, Mr. Pacetti, to wind things up.

**Mr. Massimo Pacetti:** Thank you, Mr. Pallister.

[Translation]

I would like to follow up on the question asked by Mr. Gosselin, if possible.

[English]

Through you, Mr. Chair, of course, I want to know if Mr. Gosselin can provide us with the details.

I'm not going to be picky at this point, but I'm not comfortable voting for something if I'm not sure what I'm voting on. Somehow you came up with \$9.9 million. You made some projections on how you went from \$9.4 million to \$9.9 million. I understand part of it is labour. I'm willing to be reasonable, but can you provide us with some detail or some backup as to how you expect to spend that \$9.9 million. Could you do that at a later date?

**Mr. Pierre Gosselin:** Yes, we can probably do that, but I would reiterate what I said earlier on. In real terms we have not had an increase in our budget for seven or eight years. The increases that you see in the gross numbers have to do with collective agreements.

**Mr. Massimo Pacetti:** Even if we get a breakdown as to how much it is costing to rent halls, tribunals, how much is for salaries, how much is for administration, whatever you can provide. I'm willing to be flexible. If you like, I can give you a long list of what I need to know. I don't need to go into your invoices and your daily operating budgets, but at least a one-page—

• (1630)

**Mr. Pierre Gosselin:** We can give you a gross breakdown of line items.

**Mr. Massimo Pacetti:** And just quickly, on the caseload in your annual report, you had 74 cases referred to you and 47 were cases withdrawn, or not initiated, or dismissed.

**Mr. Pierre Gosselin:** Under what heading? What type of case?

**Mr. Massimo Pacetti:** The caseloads on page 4. I want more or less to know why there were so many.

**Mr. Pierre Gosselin:** This is procurement complaints. Is that what you're looking at? That 74, at the bottom of the page?

**Mr. Massimo Pacetti:** Yes, 47 out of 74, in this case, I guess would have been procurement. I'm not sure. It just says "caseloads" on top. Yes, procurement review activities. I'm wondering why so many would have been just dismissed.

**Mr. Pierre Gosselin:** These are complaints that have been filed and then later withdrawn because the parties either have abandoned them or have worked things out.

**Mr. Massimo Pacetti:** Would your office have a say in that?

**Mr. Pierre Gosselin:** No. We encourage people to try to resolve their issues before coming to us. Even after they've filed a case, they can withdraw it.

**Mr. Massimo Pacetti:** Thank you.

**The Chair:** Thank you, Mr. Pacetti.

Gentlemen, thank you very much for your testimony today. The committee appreciates your being here.

We'll allow the witnesses from FINTRAC to make their way forward, please. Thank you.

Pursuant to Standing Order 81(4), main estimates 2006-07, vote 30 under Financial Transactions and Reports Analysis Centre of Canada, referred to the committee on Tuesday, April 25, 2006. I am now calling vote 30 under Financial Transactions and Reports Analysis Centre of Canada.

Welcome, and thank you for that musical chairs challenge you just had to accept.

I understand there is a brief presentation to begin. Who would be doing that?

Madame Wing, welcome to the committee. I'll invite you to proceed with your presentation at your comfort. I don't want to rush you.

**Mrs. Sandra Wing (Senior Deputy Director, Financial Transactions and Reports Analysis Centre of Canada):** Thank you, Mr. Chairman.

[Translation]

Members of the committee, I am very pleased to appear before you and talk to you about the work we are doing at FINTRAC.

[English]

My name is Sandra Wing; I'm the senior deputy director for FINTRAC. Joining me today is my colleague Alfred Tsang, who is the assistant director for finance and administration, and Paul Dubrule, who is general counsel for FINTRAC.

I will begin with a short presentation that will provide a high-level overview of FINTRAC. The first slide is a presentation overview. I'll cover who we are, what we do, our main estimates, our results, and I'll make some remarks on the challenges that lie ahead.

FINTRAC was established in 2000 to facilitate the detection and deterrence of money laundering and terrorist activity financing in Canada and around the world. FINTRAC is an independent agency, reporting to the Minister of Finance, who is accountable to Parliament for the activities of the centre. We are Canada's financial intelligence unit, or FIU, and our mandate is to receive financial transaction and other information, analyze it, and, when appropriate, provide financial intelligence to law enforcement and other investigative agencies, as well as foreign financial intelligence units.

We call our financial intelligence product disclosures. We are required to operate at arm's length from those agencies to which we disclose financial intelligence. This independence ensures balance between the need to safeguard the privacy of personal financial information and the investigative needs of law enforcement and security agencies.

We receive, analyze, disclose, and ensure compliance. The act places obligations on certain individuals and entities to keep records, identify their clients, and report certain financial transactions to us. These reporting entities, as we call them, include financial entities, deposit-taking institutions, banks, credit unions, accountants, casinos, money services businesses, foreign exchange dealers, securities dealers, life insurance companies, and real estate brokers and agents.

Reporting entities must report suspicious transactions related to money laundering or terrorist activity financing, regardless of their value; cash deposits of \$10,000 or more; wire transfers into or out of Canada of \$10,000 or more; and terrorist property holdings. In addition, anyone crossing the border must report to the Canada Border Services Agency movements of cash or monetary instruments of \$10,000 or more into or out of Canada. All such reports are sent to FINTRAC by the Border Services Agency. We also receive from the Border Services Agency reports of any currency seizures.

What do we do with this information? FINTRAC's analysis of financial transactions can be initiated in a variety of ways: by a transaction report, or series of such reports, a voluntary information report from law enforcement or CSIS, by open source information or by information provided by a foreign financial intelligence unit. Whatever the starting point, analysts search through the centre's database using specially designed technological tools to uncover patterns of financial transactions that suggest a suspicion of money laundering or terrorist activity financing or other threat to the security of Canada.

Our analytical success is closely linked to our technological capability. When, as a result of its analysis, FINTRAC has reasonable grounds to suspect that the information would be relevant to the investigation or prosecution of a money laundering or terrorist activity financing offence, the centre must make a disclosure to the appropriate police force. In cases where there are reasonable grounds to suspect a threat to the security of Canada, including terrorist activity financing, FINTRAC must disclose to the Canadian Security Intelligence Service. In some cases, we must also disclose to the Canada Revenue Agency and to the Canada Border Services Agency; however, in these instances we must meet a dual test. The information contained in our disclosures includes details about the financial transactions, where they took place, when they took place, the individuals conducting the transactions, and any accounts, businesses, or other entities involved.

Another key function of the centre relates to our mandate to ensure that reporting entities comply with the act and regulations. We have established a modern and comprehensive risk-based compliance program that includes activities such as providing outreach and assistance to reporting entities to ensure that they are aware of and understand their obligations under the act; assessing the risk of non-compliance for all of the reporting entity sectors; monitoring the quality, timeliness, and volume of reporting;

verifying compliance through examination; and disclosing cases of non-compliance to law enforcement for criminal investigation and prosecution.

• (1635)

I'll turn now to our main estimates.

In our main estimates, FINTRAC presents a request for \$31.1 million. Our budget is fairly straightforward. It relates to staff costs and expenditures in support of our operations. FINTRAC plans to spend approximately 60% of its budget on employees who are located here in Ottawa as well as in three small regional offices: one in Montreal, one in Toronto, and one in Vancouver.

The remaining \$12.2 million of our request represents our operating costs. Our operating costs are in support of such areas as information technology, data collection and analysis, compliance functions, communications, as well as IT and physical security. A large percentage of our operating expenditures is somewhat non-discretionary, for example, just over \$4 million for information technology. In addition, close to \$4 million of our budget is for lease costs to Public Works and Government Services Canada, as well as to other government departments for services such as legal support and translation.

I'd like to take a minute on our key results. Last November, the Minister of Finance tabled FINTRAC's fourth annual report in Parliament. The report documents FINTRAC's results for fiscal year 2004-05, and lays out our priorities for 2005-06. It is important to keep in mind that FINTRAC's success hinges directly on the quality of the financial transaction information we receive. We receive approximately one million financial transaction reports per month. Our reporting entities send virtually 100% of their reports to us electronically. In 2004-05, we made 142 case disclosures of financial intelligence on suspected money laundering and terrorist activity financing: 110 of these related to money laundering, 24 related to terrorist activity financing, and eight involved both money laundering and terrorist activity financing or other threats to the security of Canada. These 142 cases involved financial transactions valued at just over \$2 billion.

With respect to our compliance function, we conducted 190 compliance examinations on site in 2004-05. FINTRAC provided feedback sessions to the Canadian Bankers Association, and individually to major banks, casino regulators, and others, over the course of the last two fiscal years. FINTRAC is expanding the feedback sessions to other large reporting entity sectors and associations representing these sectors.

To minimize the regulatory burden on reporting entities, FINTRAC established partnerships with 15 federal and provincial regulators such as the Office of the Superintendent of Financial Institutions. During the 2005-06 fiscal year, FINTRAC made or held close to 600 presentations and/or meetings with reporting entities, their associations, and these reached approximately 15,000 individuals.

Finally, our success in the international community has allowed us to expand our network of relationships with other countries and international organizations. As of March 31, 2005, we had 20 information exchange agreements with foreign FIUs. To date, we have signed 30 such agreements. We continue to develop and enhance our technology and analytical capabilities to ensure that FINTRAC produces reliable financial intelligence for law enforcement and security agencies. In addition, we continue to develop and maintain sound and cooperative working relationships with all our reporting entities, and with law enforcement and security stakeholders.

I'll just take a quick look at the year ahead.

FINTRAC has many accomplishments, particularly when one considers that we've only been operational for roughly four years. However, there are still a number of challenges and opportunities ahead. When our legislation was passed in 2000, the bill included a mandatory parliamentary review after five years. This review has been scheduled to commence later this week. In preparation for the parliamentary review, the Department of Finance released a consultation paper in June 2005 that put forward a set of proposals to enhance Canada's anti-money-laundering and anti-terrorist-financing regimes.

• (1640)

The proposals are designed to respond to what we have learned through the building and operations of FINTRAC over the last few years, as well as to recommendations of our partners, the Auditor General, and others. As well, they are designed to meet revised international standards set by the Financial Action Task Force on Money Laundering. As we move forward, we will work with the Department of Finance and other partners to strengthen Canada's ability to combat money laundering and terrorist activity financing.

I will conclude my presentation here. I hope you have found it useful, and I would be happy to answer any questions you may have.

**The Chair:** Thank you very much, Madam Wing.

Mr. McKay, would you like to commence?

**Hon. John McKay (Scarborough—Guildwood, Lib.):** I'll lead off, thank you, Chair.

Thank you, Ms. Wing.

You're getting \$31 million out of Canadian taxpayers on an annual basis. How do we know the Canadian taxpayer is getting value for money?

**Mrs. Sandra Wing:** We measure our performance on the basis of the case disclosures that we make to the law enforcement and security communities. If the disclosures are adding value to their investigations and prosecutions within Canada for money laundering and terrorist activity financing, we consider that value to the Canadian taxpayers.

• (1645)

**Hon. John McKay:** So \$31 million yielded 142 disclosures last year, is that correct?

**Mrs. Sandra Wing:** Last year.

**Hon. John McKay:** Is there a pattern to it? Is it up, is it down?

**Mrs. Sandra Wing:** I have a couple of different performance measures I could give you. As of March 31, 2005, we had disclosed 442 case disclosures, and their dollar value was \$3.2 billion. As of December 31, 2005, we had disclosed a total of 554 case disclosures, and the value was \$6.2 billion in total.

**Hon. John McKay:** Now, how do you measure, or do you measure whether that leads to a successful prosecution? It's one thing to pass on the information; it's another thing to know whether that's useful for the purposes of the intention of the original bill. How do you measure that?

**Mrs. Sandra Wing:** It's a very good question. We've been working with law enforcement and our security partners to try to put in place what we call a feedback mechanism. We disclose to law enforcement—I'll use law enforcement as the example—they investigate, since we're not an investigative agency, and hopefully their investigations will lead to charges and then to prosecutions.

But tracking those statistics through the Canadian judicial system is difficult. We disclose to the RCMP, but also to provincial and municipal police forces. So what we did at FINTRAC was establish, in consultation and partnership with the law enforcement community, through the auspices of the National Coordinating Committee on Organized Crime, a mechanism that would allow us to start collecting feedback on how useful our case disclosures were.

Now, I have preliminary results. We established this mechanism towards the end of the last fiscal year and we put it in place in the fall of last year. We are assembling the results for the case disclosures that we made just in the previous year. We're not finished assembling those results for all of the case disclosures, but we do plan to collect and analyze those results and publish them in our annual report, which is to be tabled in the fall.

We do have preliminary indications that 60% of those who have responded so far have indicated that our information has provided them with new investigative leads, and 74% have indicated that it has been relevant to their investigations.

**Hon. John McKay:** So that sounds like there's value in what you actually do.

How does that relate to the Auditor General's critique, if you will—I was going to say "criticism", but I don't think it's a criticism, I think it's more of a critique—in her 2004 report, where she talks about legislative restrictions, enforcement mechanisms that are incomplete, and some questions about accountability? How have you addressed the Auditor General's concerns?

**Mrs. Sandra Wing:** The Auditor General made a number of recommendations. For those that were government-wide, I'll set them aside for the moment, if I can. For those that were specifically focused at FINTRAC, the Auditor General was critical of FINTRAC's ability, if you will, to disclose more information to law enforcement.

What we did in response to that was to work with law enforcement, security agencies, as well as the Department of Finance to come up with proposals—some were legislative—that if Parliament agrees, would enable FINTRAC to disclose more information to make them more useful to law enforcement.

I don't think they're not useful to law enforcement now, but there are difficulties. They referred to issues that law enforcement may have with disclosures we make for money laundering, where because we're not an investigative agency, we may not, for example, know the predicate offence. For law enforcement to investigate and lay charges, they have to know the predicate offence.

Looking at the financial transactions themselves, we may never know the predicate offence. When we pass disclosures that link money laundering networks to law enforcement, there are some times, for example—and this is a small example—when we can make connections on the basis of something like a telephone number. We cannot now disclose to law enforcement how we made that connection.

So there are proposals—they were put forward in the white paper that was issued last June—and we are looking for some legislative amendments that would make it easier for us to disclose more complete information to law enforcement about what it is we're seeing and how we've made our connections.

There are some things that FINTRAC has done in the meantime. We've taken a look at our disclosure packages and have now included i2 charts with all the disclosures, where we draw the linkages for law enforcement in a picture. We've received very positive feedback from law enforcement on the use of that tool. Instead of just listing the financial transactions and where they took place, we actually include an i2 chart.

• (1650)

[Translation]

**The Chair:** Mr. St-Cyr, you have seven minutes.

**Mr. Thierry St-Cyr:** Earlier, we talked about statistics on global transactions. Can you tell me how these statistics break down geographically?

In my riding, and elsewhere in the Province of Quebec, and probably in the rest of Canada, Canadians are concerned over international transactions that take place in the Barbados and other tax havens. Many people believe that because these countries have less transparent fiscal systems, there is more money laundering, economic crimes, and even terrorist financing activities going on. It is a comment we hear often.

Based on your figures, is it possible to confirm or disprove these hypotheses? You conduct inquiries on tax havens such as Barbados, a country with which Canada has signed special agreements and where Canadians invest massively. We are talking about a 500 per cent increase over the last 10 years. Billions of dollars have been invested in these tax havens. What are the problems? How can we find out what percentage of these investments is used for money laundering, or financing terrorist activities, for example?

**Mr. Paul Dubrule (General Counsel, Legal Services, Financial Transactions and Reports Analysis Centre of Canada):** Yes, we have ties to some 30 countries with which we have intelligence and information-sharing agreements. We are working in close cooperation with these countries so as to determine whether transactions conducted in Canada involving any other country could be related to money laundering or financing of terrorist activities.

You should also note that tax evasion does not directly come under our mandate, that it is an offence created by Parliament but not under legislation regulating our activities. Therefore we concentrate on money laundering. If we suspect tax evasion as well, we may disclose that information to the Canada Revenue Agency.

**Mr. Thierry St-Cyr:** The point is whether the two are correlated, because tax evasion in tax havens is often related to the fact that the banking systems in these countries are less transparent. It would be reasonable to presume that money laundering in these countries would be easier.

Can you tell us how many cases per country you refer to agencies for further investigation? Can you see any correlation in this regard?

• (1655)

**Mr. Paul Dubrule:** First, there is a correlation among countries with very efficient banking systems in place. I am referring to countries such as Canada, with an electronic system, and in which transactions can be easily completed.

Second, clearly there are countries that lack measures to determine whether money laundering occurs. So, yes, we recognize those countries.

I feel a little uncomfortable, because it is not my job to say that any country is on a list or not.

**Mr. Thierry St-Cyr:** Did you work in collaboration with Barbados, among others, in order to exchange information?

**Mr. Paul Dubrule:** In fact, we have an agreement with Barbados.

**Mr. Thierry St-Cyr:** More generally speaking, be it Barbados or any other country, do you have statistics on the geographic distribution of cases you refer for investigation?

**Mr. Paul Dubrule:** To date, we have not compiled such statistics, but we are currently doing so in order to determine whether, in the Caribbean, Asia or Europe, there is a real reason to suspect money laundering is occurring, given the country used to send funds.

**Mr. Thierry St-Cyr:** A great deal of the massive amounts of information you have must be information that would help you, the agencies, but also legislators, MPs, see what the real situation is and help us determine where we need to put our efforts and the goal we need to reach.

**Mr. Paul Dubrule:** Along with our allies the police, we are examining our operations in order to determine where money laundering may be occurring.

As you mentioned, we receive a great deal of information about transactions, for example, electronic funds transfers of \$10,000 or more, even if these transactions are legal. So, we need to examine them in order to determine which ones are illegal and why. We are doing this region by region, country by country, in order to determine if there is anything that could help us target operations related to any particular country.

**The Chair:** Thank you, Mr. St-Cyr.

[English]

Mr. Turner, it's over to you.

**Hon. Garth Turner (Halton, CPC):** So you mostly receive reports and review them. You don't do investigations per se. Is that correct?

**Mrs. Sandra Wing:** We receive, analyze, and disclose, but we're not an investigative agency.

**Hon. Garth Turner:** Based on what you receive and what you analyze, can you conclude that there is terrorist activity in Canada?

**Mrs. Sandra Wing:** Our focus is on terrorist activity financing. We have made disclosures in relation to terrorist activity financing.

• (1700)

**Hon. Garth Turner:** Can you elaborate?

**Mrs. Sandra Wing:** When we have reasonable grounds to suspect that the transactions would be relevant to the prosecution or investigation of threats to the security of Canada, including terrorist activity financing, we must disclose this to the RCMP and CSIS—and we have.

**Hon. Garth Turner:** Can you give us an idea of the nature of the terrorist threat you've determined?

**Mrs. Sandra Wing:** I apologize that I haven't looked at all case disclosures that we have produced—they're very tactical in nature and focused—with a view to analyzing them across a broad spectrum. The threat question is probably more appropriately posed to CSIS.

On the financing side, we have seen patterns of transactions very similar to those in money laundering, but for much smaller amounts.

**Hon. Garth Turner:** Okay, but whereabouts are they in the economy? You mentioned a whole range of areas that you monitor. Is there anything we should know about the focus of your activities in that regard?

**Mrs. Sandra Wing:** Yes, but I think you're asking me to comment on the scope of terrorist activity financing in Canada.

**Hon. Garth Turner:** We're trying to ascertain the dollars that will go to you folks to do what you do, so it's important for us to know what you do and the level of threat that exists, as revealed through financial transactions that may pose terrorist threats to Canada.

**Mrs. Sandra Wing:** The 24 cases of suspected terrorist activity financing that we disclosed in 2004-05 would support that there is terrorist activity financing in Canada.

**Hon. Garth Turner:** Okay. You still haven't told us what areas or given us—

**Mrs. Sandra Wing:** Do you mean what areas of Canada?

**Hon. Garth Turner:** You told us about a whole range of things that you monitor, from casinos to real estate transactions, so where in the economy are you seeing this?

**Mrs. Sandra Wing:** Terrorists and those who raise funds in support of terrorism use a variety of means. They use the legitimate financial services sector and the unregulated financial services sector. If I went down the list, I guess I could try to tick them off. Of all the sectors we monitor or that report transactions to us, the vast majority are moving through the legitimate financial services sector—so the deposit-taking institutions.

We have not conducted that study. We have not looked at it from the point of view of what percentage of which financial sectors they're moving through.

**Hon. Garth Turner:** I was just interested in whether it was real estate, casinos, financial institution deposits by terrorist organizations, or—

**Mrs. Sandra Wing:** The vast majority of it is through the deposit-taking institutions—so the banks, the credit unions, and the caisses populaires.

**The Chair:** Your time has elapsed so we'll go over to Mr. Crête now.

It's your round, sir.

[Translation]

**Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ):** Thank you very much, Mr. Chairman.

In your documents, you stated that you disclosed 142 cases regarding approximately \$2.1 billion to law enforcement and the intelligence organizations.

Do you know how much of this money has been recovered?

• (1705)

**Mr. Paul Dubrule:** No. This question should be put to the police departments. FINTRAC is responsible for forwarding financial information. That is therefore not part of our mandate.

**Mr. Paul Crête:** After you have determined that some \$2 billion in suspect money is in circulation, do you not think it would be relevant to find out whether or not the system allowed for the recovery of a certain percentage of this amount, so that you can assess the effectiveness of any operation and ascertain whether or not any changes need to be made, either at your level or somewhere else?

**Mr. Paul Dubrule:** Under the act that governs us, dozens of legal proceedings have been launched and in many other cases, convictions have been obtained. However, we do not know whether there have been any seizures of goods in any particular case. That is not our role.

As Ms. Wing said earlier, we work in cooperation with the police departments to obtain information and statistics in order to establish how many files have been processed. This financial information helps us instigate proceedings and conduct seizures, if necessary.

**Mr. Paul Crête:** Would you find it useful if, either through a regulation, an act or another statutory instrument, there was an obligation to forward this information to you in order to measure the effectiveness of your work?

**Mr. Paul Dubrule:** Yes. Our act forbids us from formally indicating that we have forwarded the information in a specific case. We find out from the media that Mr. So-and-So was convicted and we know that we disclosed the information, but it stops there.

**Mr. Paul Crête:** What mechanism, be it legislative or regulatory, should we create to rectify the situation? You forward the names, investigations are launched, and, finally, a decision is rendered or an obligation is imposed, but you do not get this information.

What do we need to do to ensure that you obtain this information automatically?

**Mr. Paul Dubrule:** First of all, there is the legislative aspect, and secondly, the cooperation between ourselves and the police departments. This is a relatively new product, which has only been in existence for three years.

We try to cooperate in order to find out whether such information helps them do their jobs, on the one hand, and, on the other hand, what they do. Did a seizure take place? Was the individual convicted for money laundering or any other crime? We do not have access to this information because the police do not forward it to us.

**Mr. Paul Crête:** Based on what you're saying, we do not necessarily have to change the regulations. The Minister of Justice or the Solicitor General, at either the federal or provincial level, could write to the police departments to encourage them to forward such information to FINTRAC.

**Mr. Paul Dubrule:** Indeed, it would be very useful, for instance, to find out the grounds resulting in a given individual's conviction and how much money was seized so we could simply determine exactly what occurred.

• (1710)

**Mr. Paul Crête:** Mr. Chairman, if I still have some time remaining, I would like to give my colleague an opportunity to ask a question.

**The Chair:** I am sorry, sir: there is some time remaining, but you cannot use it now.

[English]

For clarification, I recall the Auditor General's report of, I think, 2004 alluding to the challenges posed to your organization and others because of the lack of ability to access financial records from legal counsel. I'm curious as to where that discussion is now.

It strikes me that if lawyer-client privilege can be claimed, the first place I'm going, as a potential terrorist or as a participant in organized crime activity, is to a lawyer. I want to know where that discussion is, from your perspective. Would you like to elaborate to the committee on that?

**Mr. Paul Dubrule:** She wants the lawyer to answer the question? That's perfect.

**The Chair:** Don't claim lawyer-client privilege.

**Mr. Paul Dubrule:** Yes, I'll claim privilege and not say anything.

In its white paper released last year, the Department of Finance indicated it was the position of the government, and remains the position of the government, that all financial intermediaries should be subject to reporting requirements under this legislation. At the same time, the government acknowledges that there are peculiarities in relation to solicitor-client privilege and to how lawyers could be subject to the legislation when they are acting as financial intermediaries.

As a result, there have been ongoing discussions with the Federation of Law Societies of Canada in an attempt to come to a meeting of the minds to show that lawyers can in some way be subject to some mechanisms similar to those set out in the legislation for other financial intermediaries, be they accountants or bankers, so that we can demonstrate to the FATF, among others, who have said that lawyers should be subject to this type of regime. The

government is working with the Federation of Law Societies of Canada to come to a resolution of this issue.

**The Chair:** Would you like to comment as to what degree you feel the lack of disclosure requirements is a problem for the efficacy of your organization and others?

**Mr. Paul Dubrule:** In our minds, there is a potential for abuse when anyone who we believe should be subject to the legislation is not subject to it. This is not for the moment, or at all, to say that lawyers are or are not involved in money laundering or terrorist financing. We don't know; we don't have that information reported to us.

**The Chair:** Nor would you be able to obtain it under the status quo situation.

Mr. McKay, we'll go over to you, sir. You've got five minutes.

**Hon. John McKay:** Thank you, Mr. Chair.

Recently Human Rights Watch released a report on fundraising by alleged terrorist groups in the Sri Lankan community. The report was vigorously denied by the Tamil organizations. I'm assuming—correct me if I'm wrong—that you've read the report. I'd be interested in your comments as to whether there is substance to the report.

**Mr. Paul Dubrule:** Yes, I have read the report. I'm not sure it's appropriate for FINTRAC to get into whether there is substance in the matter. What I can say is that the RCMP and CSIS have indicated they are concerned and are investigating their concerns in relation to that issue.

**Hon. John McKay:** I'm assuming that FINTRAC, in its investigations, has come across financing, particularly financing by Tamil groups, and I'm assuming—and you can correct me if I'm wrong—that that information has been forwarded to CSIS or the RCMP. Is that a fair assumption?

**Mr. Paul Dubrule:** Hypothetically, if we had such information about suspicions of terrorist financing in relation to the Sri Lankan community, yes, it would be forwarded to the RCMP or CSIS, but as I indicated earlier, I can't discuss any specific cases or even make allusions to whether, in relation to a group or entity, we have made any particular disclosure.

• (1715)

**Hon. John McKay:** Thank you.

**The Chair:** Thanks, Mr. McKay.

Monsieur Harvey, go ahead, please.

[Translation]

**Mr. Luc Harvey:** Is it, yes or no, important to have the RCMP in attendance during your interventions?

**Mr. Paul Dubrule:** It is important for the police to be there. The information that is provided to us on a voluntary basis tells us what the targets of the police force are and helps us to begin our analysis. From that point onward, we can relay the information and widen our network.

**Mr. Luc Harvey:** I will ask you to give me brief answers, because during the last round, I did not have time to put all my questions.

**Mr. Paul Dubrule:** I am sorry. I will try to be brief.

**Mr. Luc Harvey:** That is all right.

We are talking about whistleblowing. Your main source of information must be the banks and their transactions.

Suppose I take a container, stuff it with \$100 bills without telling you about it. Of course, you never saw anything. Right or wrong?

**Mr. Paul Dubrule:** A good legal answer would be that this depends on the circumstances.

**Mr. Luc Harvey:** It depends on whether or not anyone tipped you off.

**Mr. Paul Dubrule:** Quite right. Even if the transaction only involved a few hundred dollars, if the bank suspects anything it must let us know.

**Mr. Luc Harvey:** But if I cleverly conceal all this in a container on palettes, with some fish on top, no one will see anything.

We have heard about Indian reserves, cigarette taxes, etc. In what ways can you intervene at this time?

**Mr. Paul Dubrule:** To ensure that the reporting entities are following the legislation, we have already gone to reserves and we will continue to do so.

**Mr. Luc Harvey:** Do you currently have any information to the effect that there are still problems with cigarette taxes?

**Mr. Paul Dubrule:** We are not directly involved in tax evasion. It is not a part of our mandate. Only money laundering...

**Mr. Luc Harvey:** Tax evasion is not really a part of your mandate. Basically, you are only interested in money laundering.

**Mr. Paul Dubrule:** Of course, there could be a close connection.

**Mr. Luc Harvey:** Sometimes, there is a link.

Do you think that exchange offices are also a source of problems? There are many such establishments, like the Instant Change offices etc., where you can cash a cheque. There is a process called double endorsement.

**Mr. Paul Dubrule:** Non-regulated entities do cause problems both at the provincial and federal levels.

**Mr. Luc Harvey:** Would you like this to be regulated in some way?

**Mr. Paul Dubrule:** A document from the federal finance department proposes that such entities should be registered, so that we can at least know who is in charge.

**Mr. Luc Harvey:** Theoretically, there should not be any more double endorsements.

**Mr. Paul Dubrule:** Yes.

**Mr. Luc Harvey:** All right. What other tools would you need to do your work? I did not ask you to give a yes or no answer.

**Mr. Paul Dubrule:** This is a question that should be put to my client.

**Mr. Luc Harvey:** All right.

[*English*]

**Mrs. Sandra Wing:** As I mentioned in my presentation, there are a few changes. We've learned a lot over the last three years. We'd like to see the registration of the money services business. We'd like to be able to include more information in our disclosures to law enforcement and security agencies. We'd like to look at an

appropriate mechanism to introduce administrative monetary penalties for the compliance side of the act.

• (1720)

[*Translation*]

**Mr. Luc Harvey:** Once again, I must say that my time is short. This is why I wonder if you could prepare for us a single-page document, containing a list of tools or mechanisms that you would like to have us study, so that we can contribute to the advancement of your file and ensure a better protection against money laundering for Canada.

How much time do I have left, Mr. Chairman?

[*English*]

**The Chair:** As Mr. Harvey has accurately predicted, he has run out of time. However, I would invite him to review the minutes and the response to his previous question as a starting point for dealing with the request that you outlined.

I'll go to Madame Brunelle.

[*Translation*]

Ms. Brunelle, you have five minutes.

**Ms. Paule Brunelle:** Your mandate is to determine to what extent the proceeds of crime are used to finance terrorist activities.

Does your experience tell you that for the past few years, terrorist activities are on the increase and that this increase can justify the Americans requiring all Canadians to have passports? Are these things closely linked?

**Mr. Paul Dubrule:** I am sorry, but with regard to the passport issue, I am not really able to give you an answer.

**Ms. Paule Brunelle:** Have you noted any increase?

**Mr. Paul Dubrule:** We have noticed incoming information about terrorist activities. Given that this agency has only been in existence for three years, we cannot tell whether there is any real increase in terrorist activity, or if it is simply because we are identifying operations which, in our opinion, are involved in financing terrorist activities.

However, as the director of Criminal Intelligence Service Canada recently said, there is no doubt that there are entities and persons involved in activities which, under our legislation, are considered as terrorist activities or as a threat to our country.

**Ms. Paule Brunelle:** At times, as we look back, we wonder whether there is not a certain amount of collective paranoia. Canada is gaining a reputation as a rallying point for terrorists or as a place through which they all pass.

**Mr. Paul Dubrule:** The only thing I can say is that we have a first-class banking system. For this reason, and also because its economy is closely linked to that of the United States, Canada could be used by terrorists to finance their activities.

As for the reasonable nature of our suspicion regarding this or that piece of information, we are constantly on the alert. I hope, however, that we are not being paranoid.



**Ms. Paule Brunelle:** I see that your mandate also includes prevention and deterrence. How do you execute these mandates?

[*English*]

**Mrs. Sandra Wing:** I'll start, and we'll let Paul finish up if he has additional comments.

The prevention and deterrence functions are mutually reinforcing. So if we can detect and help law enforcement to increase their investigations and prosecutions; if we can put in place, with our reporting entities, the means by which you can't walk around with hockey bags full of criminal proceeds and deposit them without reporting; if we can put in place mechanisms whereby those on the front line, and they know best, have a place to report transactions about which they're suspicious, about which there's something not quite right—and we can look across the financial services sectors, it's not just one bank or one money services business, it's combinations of banks, money services businesses, casinos—if we can put together mechanisms such as those, we deter.

We also use public awareness. We reach lots of reporting entities. The public goes to those reporting entities to do their banking. It's become much more apparent, I think, over the last four years that there are rules and regulations and there's the ability for Canadian law enforcement to follow the trail when it is criminal proceeds.

• (1725)

[*Translation*]

**The Chair:** Thank you, Ms. Brunelle.

[*English*]

To conclude, Mr. Dykstra please.

**Mr. Rick Dykstra (St. Catharines, CPC):** I have a couple of questions. If I could take a step back here, in terms of your dealings with the banking institutions, credit unions, and caisses populaires, how would you deem, or term, or explain your working relationships with them?

**Mrs. Sandra Wing:** For the most part—I'd like to say for the whole part—they are very positive. We like to take a cooperative approach when it comes to compliance, and I'll give you an example.

When FINTRAC was introducing the first of the reporting requirements, which would have been four or five years ago, we phased them in. So we discussed with the reporting entities because it is a big challenge. We wanted to collect all the information electronically, which is more efficient for us and more efficient for them. We took an approach where we could phase them in when the regulations came into force for each of the different reporting types. We sat down and asked them, would six months be sufficient time if we want to make any systems changes that affect electronic reporting? And we put in place mechanisms with the Canadian Bankers Association, what we called a change management process. We meet regularly with the larger reporting entities, and I would say that the relationships are, on the whole, positive.

It's tougher to reach the unregulated sectors, but I would still characterize those relationships as somewhat positive. They're maybe not as positive as with the regulated sectors, but we find they are responding, for the most part.

**Mr. Rick Dykstra:** I don't know whether you have the number handy, but in the dealings with them in terms of actually arriving at prosecutions, (a) have you been able to achieve prosecutions, and (b) do you have a number as to what that would be?

**Mrs. Sandra Wing:** I'm not trying to be evasive. My lawyer is sitting here. By law, we cannot reveal the fact that we've made any specific disclosures. Our legislation prohibits us from doing that. We take the protection of the privacy of the information extremely seriously, and there are penalties for those who work in FINTRAC who would disclose such information.

But I can tell you that there are instances in which FINTRAC has made disclosures and we know charges have been laid. And I can tell you that we're also aware of a number of instances where the centre has made disclosures and individuals have been convicted. I cannot talk about those cases.

**Mr. Rick Dykstra:** No, it was more about a number than it was.... I know it's been a tough hour, because you're not in a position to be able to give specifics on cases, but I was looking for a general sense. A lot of taxpayers' money is involved in running the department, and we're going to invest more money over the next two years, so the sense that there has been success and that it has come to fruition is what would be good to hear today.

• (1730)

**Mr. Paul Dubrule:** Ms. Wing referred to dozens of cases, but I might just add that money laundering cases are very lengthy and time-consuming. We've been in business only a few short years; investigations can often take three, five, eight, or ten years before charges are laid. So we're just at the beginning of the cycle of seeing our disclosures come to fruition in terms of charges and, ultimately, convictions.

**Mr. Rick Dykstra:** In response to that, my final question would be about how you are working with the banks. I'm speaking specifically to the banks, but I'm wondering how you can improve, how you can work, what is going to foster a stronger relationship, in your opinion, so that you will be able to pursue more of those opportunities.

**The Chair:** Could we have your concluding comments, please, Madame Wing.

**Mrs. Sandra Wing:** What is going to make the relationships with our reporting entities even stronger? I think FINTRAC and others need to continue to work in a climate of mutual respect and trust. It's a huge endeavour—collecting all this information, analyzing it, and disclosing it.

**The Chair:** Thank you very much.

It is also, of course, a huge endeavour for us to work in an atmosphere of mutual trust, but we have done it today. I thank the committee members for their cooperation, I thank our guests for their testimony today, and I look forward to seeing committee members back here on Wednesday, when we have the Office of the Superintendent of Financial Institutions here to visit.

The meeting is adjourned.





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