

Transportation Appeal Tribunal of Canada

2007-2008

Report on Plans and Priorities

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Minister of Transport, Infrastructure and Communities

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Section I: Overview

1.1 Chairperson's Message

I am pleased to present the 2007-2008 Report on Plans and Priorities of the Transportation Appeal Tribunal of Canada, formerly the Civil Aviation Tribunal. The Transportation Appeal Tribunal of Canada is a quasi-judicial body established in June 2003 (S.C. 2001, c. 29) to provide an independent process of review of administrative and enforcement actions – including the suspension and cancellation of licences, certificates and other documents of entitlement, the issuance of railway orders, and the imposition of administrative monetary penalties – taken under various federal transportation Acts.

The Tribunal conducts its hearings at various locations in Canada in an open and impartial manner consistent with procedural fairness and the rules of natural justice. It adjudicates matters that will have a serious impact on the livelihood and operations of the aviation, rail and marine communities in 2007-2008. Given its itinerant structure and process for conducting hearings, the Tribunal is readily accessible to those communities.

The requisite knowledge and experience of Tribunal members enhances their independence by enabling them to understand and assess the validity of the various administrative transportation actions. It also increases the confidence placed in the decisions as an expert quasi-judicial review body.

Over the years the practices and procedures of the Tribunal were flexible and straightforward and the Tribunal became one of government's best practices. Transport Canada and organizations representing document holders who appear before the Tribunal have acquired levels of experience which contribute to efficiencies in the hearing process. As well, the Tribunal took great pains to keep its process simple, informal and accessible for all applicants thereby providing effective recourse rights regarding ministerial decisions. We are, however, mindful that increasingly complex cases with higher penalties can result in countless motions and multiple day hearings.

Thus, the direction for this Tribunal for the years ahead will be its challenge to contain its growing mandate to current standards to ensure that the Tribunal continues to be regarded as one of government's best practices. We are confident that the provision of mediation and informal conferences will produce timeliness for the parties and cost benefits for the more complex cases. Having recognized the commitment of members and staff to its mandate, I am confident that the Tribunal will continue to successfully meet its challenges.

Faye Smith
Chairperson

1.2 Management Representation Statement

I submit for tabling in Parliament the 2007-2008 Report on Plans and Priorities for the Transportation Appeal Tribunal of Canada.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of the 2007-2008 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the Treasury Board of Secretariat guidance;
- It is based on the department's Strategic Outcome and Program Activity Architecture that were approved by the Treasury Board;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved planned spending numbers from the Treasury Board Secretariat.

Faye Smith
Chairperson

1.3 Summary Information

Raison d'être

The mission of the Transportation Appeal Tribunal of Canada is to review the Minister of Transport's enforcement and licensing decisions through a two-level hearing process. The Tribunal has a commitment to openness and cooperation and is mandated to conduct informal, expeditious and fair hearings.

Financial Resources

(\$ thousands)

2007-2008	2008-2009	2009-2010
1,433.0	1,433.0	1,433.0

Human Resources

(FTEs)

2007-2008	2008-2009	2009-2010
12	12	12

Agency Priorities

Description	Type
Priority 1 : Hold hearings expeditiously and informally	Ongoing
Priority 2 : Continue to implement management excellence	Ongoing
Priority 3: Sustain expert membership and competent workforce: maintain an organization of trained and knowledgeable people	New

Program Activity by Strategic Outcome

		Planned Spending (\$ thousands)			Contributes to the Following Priority
Expected Results	2007–2008	2008–2009	2009–2010		
Strategic Outcome: To provide Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation Acts reviewed by an independent body.					
Program Activity : review and appeal hearings	Access to an independent assessment governed by considerations of natural justice	1,413.0	1,413.0	1,413.0	Priority 1: Hold hearings expeditiously and informally
	More pertinent information to better manage a growing mandate	10.0	10.0	10.0	Priority 2: Continue to implement management excellence
	Provide a continuous learning environment	10.0	10.0	10.0	Priority 3: Sustain expert membership and competent workforce: maintain an organization of trained and knowledgeable people

1.4 Agency Plans and Priorities

The Transportation Appeal Tribunal of Canada replaced the Civil Aviation Tribunal which was established under Part IV of the *Aeronautics Act* in 1986. On the recommendation of the Minister of Transport, pursuant to section 73 of the *Transportation Appeal Tribunal of Canada Act*, assented to on December 18, 2001, being chapter 29 of the Statutes of Canada, 2001, the Act officially came into force on June 30, 2003. The Transportation Appeal Tribunal of Canada, a multi-modal tribunal, is available to the air and rail sectors, and in 2007, the marine sector. The *Transportation Appeal Tribunal of Canada Act* amends the *Aeronautics Act*, the *Canada Shipping Act*, the *Marine Transportation Security Act* and the *Railway Safety Act* to establish the jurisdiction and decision-making authorities of the Tribunal under those Acts. The Tribunal's jurisdiction extending to the rail sector is expressly provided for under the *Aeronautics Act* and the *Railway Safety Act* (section 2 of the *Transportation Appeal Tribunal of Canada Act*). The mandate of the Tribunal expands to act as a multi-modal review body for administrative and enforcement actions taken under various federal transportation Acts. Increased jurisdiction for the Tribunal will enlarge its caseload considerably over the next few years, but the business line will not be amended. The office of the Tribunal is located in the National Capital Region.

The Tribunal's yearly seminars ensure a trained membership through updates and discussions of legislative changes. The interaction of members and role play scenarios assist the membership in achieving quality and consistency in making and in writing its decisions. A panel discussion takes place with representatives from the transportation communities to provide feedback to the Tribunal as to delivery of services to its clients.

The Tribunal will continue to provide determinations with written reasons quickly, allowing Transport Canada and document holders to better understand the outcome of the matter and, where applicable, to make a more enlightened decision as to the exercise of their right to appeal. In 2005-2006 the average lapsed time between the conclusion of a review hearing and the issuance of a determination was 77 days for a review and 92 days for an appeal. The greater number of hearings and the increasing case complexity provide justification for the additional time needed by members.

Access to an Independent Assessment Governed by Considerations of Natural Justice

To this end, the Tribunal plans to:

- ensure that its members and staff maintain a high level of expertise;
- apply a decision-making process that is governed by the rules of fairness and the regulations and legal principles applicable to the case;
- process each request as quickly as possible;
- make all of its decisions publicly available; and
- act as mediator and facilitator for earlier resolution of disputes.

The results will be:

- that the Tribunal, a competent and independent body, can deal fairly, efficiently and in a timely and transparent manner with requests; and
- that services are available to resolve transportation-related disputes in an informal manner that is simple, rapid, less litigious and less costly.

Performance will be monitored by:

- ensuring that services are available to informally resolve transportation-related disputes in a manner that is simple, rapid, less litigious and less costly;
- hearings that are held expeditiously and informally;
- the timely disposition of review and appeal hearings within service standards;
- hearings being conducted in accordance with the rules of fairness and natural justice;
- using pre-hearing conferences to streamline and expedite the hearing process;
- quality and consistency of decision-making; and
- a level of satisfaction by the transportation community.

Improve Management Practices

Building on the momentum and successes achieved under the Modern Comptrollership Initiative and continuing with the implementation of the Management Accountability Framework, the Tribunal is committed to continuous improvement of its management practices.

To this end, the Tribunal plans to:

- implement its performance measurement framework during fiscal year 2007-2008 and to make adjustments in future as required;
- develop the necessary tools to gather performance information, given the limited resources available; and
- integrate the improved performance measures into its operational planning process.

The results will be:

- for Canadian taxpayers and parliamentarians, more pertinent information to understand how the Tribunal's program benefits Canadians; and
- for the Tribunal managers and employees, acquiring the knowledge they require to better manage the program.

Performance will be monitored by:

- the results of assessments of the Tribunal's future Departmental Performance Reports and Reports on Plans and Priorities; and
- the demonstrated ongoing use by Tribunal managers and employees of the performance information to make business decisions.

Provide a Continuous Learning Environment

To this end, the Tribunal plans to:

- provide a continued emphasis on learning and knowledge sharing; and
- maintain an organization of trained and knowledgeable people.

The results will be:

- that a learning policy will be developed to provide a continuous learning environment for staff;
- that each employee will be provided with a personal learning plan;
- that staff will be provided with opportunities for development; and
- that a positive and productive work environment will be created.

Performance will be monitored by:

- staff retention rates;
- satisfaction levels of staff; and
- ability to retain corporate memory and continuity of operations.

Government On-Line

The Tribunal will seek to improve the delivery of its key services to the public for greater efficiencies and increased client satisfaction and to improve access and service performance by making major modifications to its Web site and by providing Internet links.

Social Union Framework Agreement

The Transportation Appeal Tribunal of Canada represents the only forum for ensuring that the document holders have access to an independent assessment governed by considerations of natural justice. There are approximately 83,847 licensed aviation personnel, 36,366 rail personnel in Canada and approximately 28,737 registered aircraft and 2,866 locomotives in service. Because of this volume, the number of infractions will rise. The level of enforcement action is entirely controlled by Transport Canada which in turn determines the workload of the Tribunal. The Tribunal is also affected by the department's rewrite of its aviation, rail and marine regulations including the designation of a large number of offences under the designated provisions set out in the *Canadian Aviation Regulations*, the *Marine Transportation Security Act* and the *Railway Safety Act*.

Over the past months, the Tribunal's jurisdiction was increased to include the *International Bridges and Tunnels Act*. It is anticipated that regulations relating to the marine sector will be in effect in the upcoming fiscal year. As well, additional legislation respecting airports will be implemented over the next few years that will have the effect of increasing the number of offences under the designated provisions which in turn will affect the workload of the Tribunal.

On the assumption of an increased caseload of as much as 50 percent with the Tribunal's expansion to include the marine sector, the Tribunal will need additional funding to sustain its multi-modal mandate. The most significant upcoming challenge for the Tribunal will be its expansion as a multi-modal transportation tribunal. The reorganization of the Tribunal will increase the overall workload and require expansion of capacity in new areas of expertise: more members will have to be appointed and trained. Existing employees will likely require additional training and more staff will have to be hired to ensure that current efficiencies will be maintained.

Section II: Analysis of Program Activity by Strategic Outcome

2.1 Detailed Analysis of Program Activity

Review and Appeal Hearings

The objective is to provide for the operation of an independent Tribunal to respond to requests from the transportation community for review of enforcement and licensing decisions taken by the Minister of Transport under the *Aeronautics Act*, the *Canada Transportation Act* and the *Railway Safety Act*, and to conduct hearings into such appeals.

Strategic Outcome

The strategic outcome of the Tribunal is to provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation acts reviewed by an independent body.

Financial Resources

(\$ thousands)

2007-2008	2008-2009	2009-2010
1,433.0	1,433.0	1,433.0

Human Resources

(FTEs)

2007-2008	2008-2009	2009-2010
12	12	12

The Tribunal's only activity is the provision of an independent review process for aviation and rail by providing document holders with the opportunity to proceed with a hearing. The Tribunal represents the only forum ensuring that document holders have access to an independent assessment governed by considerations of natural justice. Its role does not overlap with, nor is it duplicated by, any other agency, board or commission. It is unique in the transportation sector in that its function is entirely adjudicative.

The Minister's enforcement and licensing decisions may include the imposition of monetary penalties or the suspension, cancellation, refusal to issue or refusal to renew documents of entitlement for reasons of incapacity or other grounds. The person or corporation affected is referred to as the document holder.

All hearings are held expeditiously and informally, according to the rules of fairness and natural justice. At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter to the Minister for reconsideration.

In conducting its reviews of enforcement and licensing decisions of the Minister of Transport, the Transportation Appeal Tribunal of Canada provides a public interest program that is unique to transportation in Canada. The Tribunal's efficiencies provide visible validation and confirmation of Canada's transportation safety system. Moreover, the Tribunal process is able to quickly identify concerns in the transportation sector of a technical or legislative nature leading to necessary amendments to legislation for the benefit of all Canadians through the enhancement and maintenance of transportation safety in Canada.

The program's effectiveness can be measured by its ability to provide the transportation community with the opportunity to have ministerial decisions reviewed fairly, equitably and within a reasonable period of time. Tribunal hearings are readily accessible to the lay person without the attendant legal complexities and case backlogs which were visited upon the court system that prevailed prior to the creation of this Tribunal and its predecessor, the Civil Aviation Tribunal.

Section III: Supplementary Information

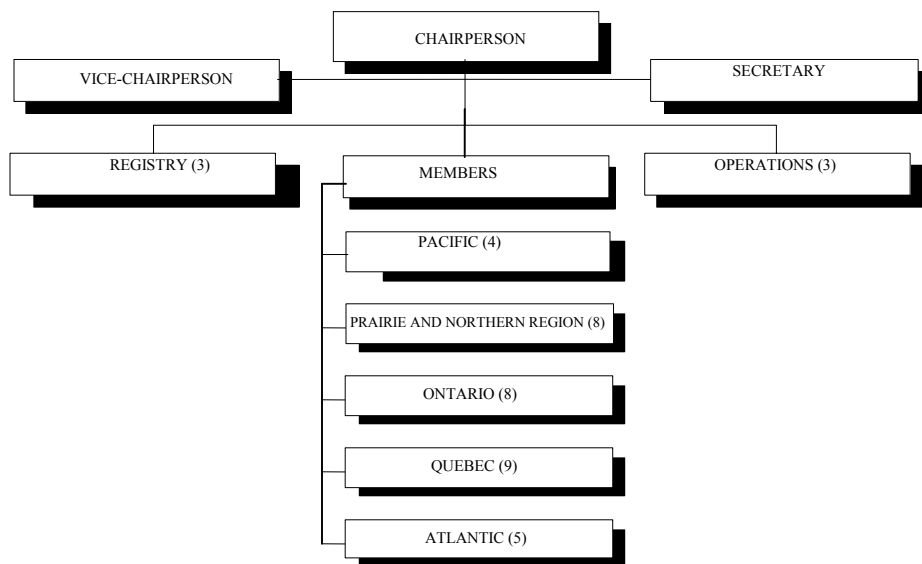
3.1 Organizational Information

The Chairperson is the Chief Executive Officer of the Tribunal and has supervision over and direction of the work and staff of the Tribunal including:

- the apportionment of work among its members;
- the assignment of members to hear matters brought before the Tribunal;
- the conduct of the work of the Tribunal; and
- the management of its internal affairs.

The Tribunal reports to Parliament through the Minister of Transport.

The Chairperson, Vice-Chairperson and immediate staff account for nine full-time equivalents. Thirty-four part-time members were in office during 2005-2006. Members are drawn from across Canada and are appointed by Order in Council on the basis of their knowledge and expertise. At the end of 2006, four part-time members were appointed in the aeronautics sector.



The lower half of the organization chart displays the distribution of part-time members by region. All members report to the Chairperson.

3.2 Departmental Link to Government of Canada Outcome Areas

2007-2008						(\$ thousands)
	Budgetary	Non Budgetary				
Strategic Outcome: To provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation acts reviewed by an independent body.						
Program Activity	Operating	Loans, Investments and Advances	Total Main Estimates	Adjustments (Planned Spending not in Main Estimates)	Total Planned Spending	
Review and Appeal Hearings	1,433.0	0	1,433.0	0	1,433.0	
Total	1,433.0	0	1,433.0	0	1,433.0	

3.3 Whole of Government Framework

The Whole of Government Framework was introduced in Canada's Performance 2002, and has evolved through departmental consultations over the years.

The framework provides a structural "logic model" for the Government of Canada - mapping the contributions of departments, agencies and Crown corporations that receive appropriations to a set of high-level Government of Canada outcome areas.

To achieve its strategic outcome, the Tribunal identified three strategic priorities in its Report on Plans and Priorities. The following table outlines the Tribunal's strategic outcome and alignment to Government of Canada outcomes.

Strategic Outcome: To provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation Acts reviewed by an independent body.
Program Activity: Review and appeal hearings
Government of Canada outcome: Safe and secure communities

More information regarding the Whole of Government Framework is available at the following address: http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/mrrsp-psgrr/wgf-cp_e.asp

3.4 Financial Tables

Table 1: Departmental Planned Spending and Full Time Equivalents

(\$ thousands)	Forecast Spending 2006-2007	Planned Spending 2007-2008	Planned Spending 2008-2009	Planned Spending 2009-2010
Review and appeal hearings				
Budgetary main estimates (gross)	1,329.0	1,333.0	1,333.0	1,333.0
Total main estimates	1,329.0	1,333.0	1,333.0	1,333.0
<i>Adjustments:</i>				
Supplementary estimates				
Carry forward	58.6			
Additional funding from Transport Canada	173.0			
Adjustment to additional funding*	(113.0)			
Policy framework for Airports	-	100.0	100.0	100.0
Total adjustments	118.6	100.0	100.0	100.0
Total planned spending	1,447.6	1,433.0	1,433.0	1,433.0
Less: non-respendable revenue	-	-	-	-
Plus: cost of services received without charge	221.6	222.9	204.7	200.8
Total agency spending	1,669.2	1,655.9	1,637.7	1,633.8
Full-time equivalents	12	12	12	12

* Funding was requested from Transport Canada to hire additional employees and to provide training sessions for newly-appointed part-time members.

Table 2: Voted and Statutory Items listed in Main Estimates

		2007-2008		(\$ thousands)
Vote or Statutory Item	Truncated Vote or Statutory Wording	2007-2008 Main Estimates	2006-2007 Main Estimates	
70	Program expenditures	1,307.0	1,200.0	
(S)	Contributions to employee benefit plans	126.0	129.0	
	Total for Agency	1,433.0	1,329.0	

Table 3: Services Received Without Charge

(\$ thousands)	2007-2008
Accommodation provided by Public Works and Government Services Canada	175.1
Contributions covering employer's share of employees' insurance premiums and expenditures paid by Treasury Board of Canada Secretariat (excluding revolving funds)	47.8
2007-2008 services received without charge	222.9

Section IV: Other Items of Interest

Transportation Appeal Tribunal of Canada	Publications
<p>333 Laurier Avenue West Room 1201 Ottawa, Ontario K1A 0N5</p> <p>Telephone: (613) 990-6906 Fax: (613) 990-9153 e-mail: info@tadc.gc.ca Internet Web Site: http://www.tadc.gc.ca</p> <p>Faye Smith – Chairperson</p> <p>Vacant – Vice-Chairperson</p> <p>Carl Poulin – Executive Services Manager</p> <p>Mary Cannon – Registrar (Ontario, Prairie and Northern and Pacific Regions)</p> <p>Monique Godmaire – Registrar (Headquarters, Quebec and Atlantic Regions)</p> <p>Suzanne Lagacé – Communications Manager</p>	<ul style="list-style-type: none"> • Performance Report - March 31, 2006 • Annual Report 2005-2006 • Guide for Applicants • The Transportation Appeal Tribunal of Canada: pamphlet

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