

2009–2010

Annual Report

TRANSPORTATION APPEAL TRIBUNAL  
OF CANADA



Air »



Marine »



Rail »

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Cat. No. TA51-2010

ISBN 978-1-100-51643-1



June 28, 2010

The Honourable John Baird, P.C., M.P.  
Minister of Transport, Infrastructure and Communities  
Transport Canada

Place de Ville, Tower "C"  
330 Sparks Street, 29th Floor  
Ottawa, Ontario K1A 0N5

Dear Minister:

**RE: ANNUAL REPORT**

In reference to the above and pursuant to section 22 of the *Transportation Appeal Tribunal of Canada Act*, I am very pleased to submit to Parliament, through your intermediary, the Annual Report of the Transportation Appeal Tribunal of Canada for the fiscal year 2009-2010.

It is a privilege to serve Canadians.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Hall".

J. Richard W. Hall  
Chairperson and CEO

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Canada 



TRANSPORTATION APPEAL TRIBUNAL  
OF CANADA

Annual Report  
2009-2010



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## MESSAGE FROM THE CHAIRPERSON



This annual report for 2009-2010 represents the 23<sup>rd</sup> report tabled in Parliament detailing the ongoing activities of the Transportation Appeal Tribunal of Canada (“Tribunal”), formerly the Civil Aviation Tribunal of Canada.

Established in 1986, the Civil Aviation Tribunal was, at that time, unique in the world as a quasi judicial tribunal set up as an independent administrative body of experts to adjudicate matters in aviation. Over the course of the first decade, the Tribunal’s operations grew with the changing aviation legislation.

The responsibility for aviation matters was followed by the expansion of the Tribunal to include the rail and marine modes, pursuant to the *Transportation Appeal Tribunal of Canada Act* and recently transportation security issues.

A review of the Tribunal’s operations to date demonstrates that it has been successful in addressing the myriad of matters that have come before it in an expeditious manner.

Over the years, its practice and procedures have been flexible, innovative and straightforward and the Tribunal initially became one of the Federal government’s best practices organizations.

The basic principles governing the Tribunal are those of independence and expertise in an administrative law environment espousing the principles of fairness and natural justice.

The very existence of the Tribunal, as a forum for the review of transportation enforcement and licensing decisions has, in and of itself, created an environment for the resolution of matters between Transport Canada and the air, marine and rail industries that it regulates. That is to say, the Tribunal provides a forum for the parties to talk to each other, to communicate and that alone resolves many matters such as aviation medical cases and matters in the railway sector.

The Tribunal has continued to make progress and innovations over the years, while keeping up with its expanding mandate to include cases in the marine sector and hearing more cases under the *Canada Shipping Act, 2001*.

As the new Chairperson and CEO, I would be remiss in not recognizing the professional dedication of the staff and the Members’ efforts and expertise in ensuring that the Tribunal achieves excellence.

A handwritten signature in black ink, appearing to read 'Richard W. Hall', written in a cursive style.

J. Richard W. Hall  
Chairperson and CEO



## OVERVIEW



### Introduction

The Transportation Appeal Tribunal of Canada replaced the Civil Aviation Tribunal in 2003 originally 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 Tribunal is available to the air, rail and marine sectors. Sections 2 and 3 of The *Transportation Appeal Tribunal of Canada Act* amends the *Aeronautics Act*, the *Canada Shipping Act*, the *Marine Transportation Security Act*, the *Railway Safety Act*, the *Canada Transportation Act*, the *International Bridges and Tunnels Act* and the *Canada Marine Act* to establish the jurisdiction and decision-making authorities of the Tribunal under those Acts.

### MANDATE

The Tribunal's principal mandate, as a multi-transportation modal administrative law review body, is to hold review and appeal hearings at the request of interested parties with respect to certain administrative actions taken under various federal transportation Acts.

## OVERVIEW

### Program Objective and Description

The objective of the program is to provide the transportation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body.

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

These decisions are reviewed through a two-level hearing process: review and appeal. All hearings are held expeditiously and informally, in accordance with 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 back to the Minister for reconsideration.

It is noteworthy to mention that the anticipated increased jurisdiction for the Tribunal will enlarge the caseload considerably over the next few years, but the business line will not be amended.

### Organizational Structure

The Tribunal's Chairperson is also its Chief Executive Officer. The Chairperson is responsible for the direction and supervision of the work necessary to facilitate the functions of the Tribunal. The Chairperson, Vice-Chairperson and immediate staff account for twelve full-time equivalents.

Seventeen part-time Members were in office during 2009-2010. Members are drawn from across Canada and are appointed by Governor In Council on the basis of their knowledge and expertise. During fiscal year 2009-2010, four part-time Members were renewed and one new part-time Member was appointed.



## OVERVIEW

### Basic Principles

The basic principles governing the Tribunal are those of independence and transportation expertise. The sound and competent execution of the Tribunal's mandate determines its effectiveness in dealing with the Canadian transportation community.

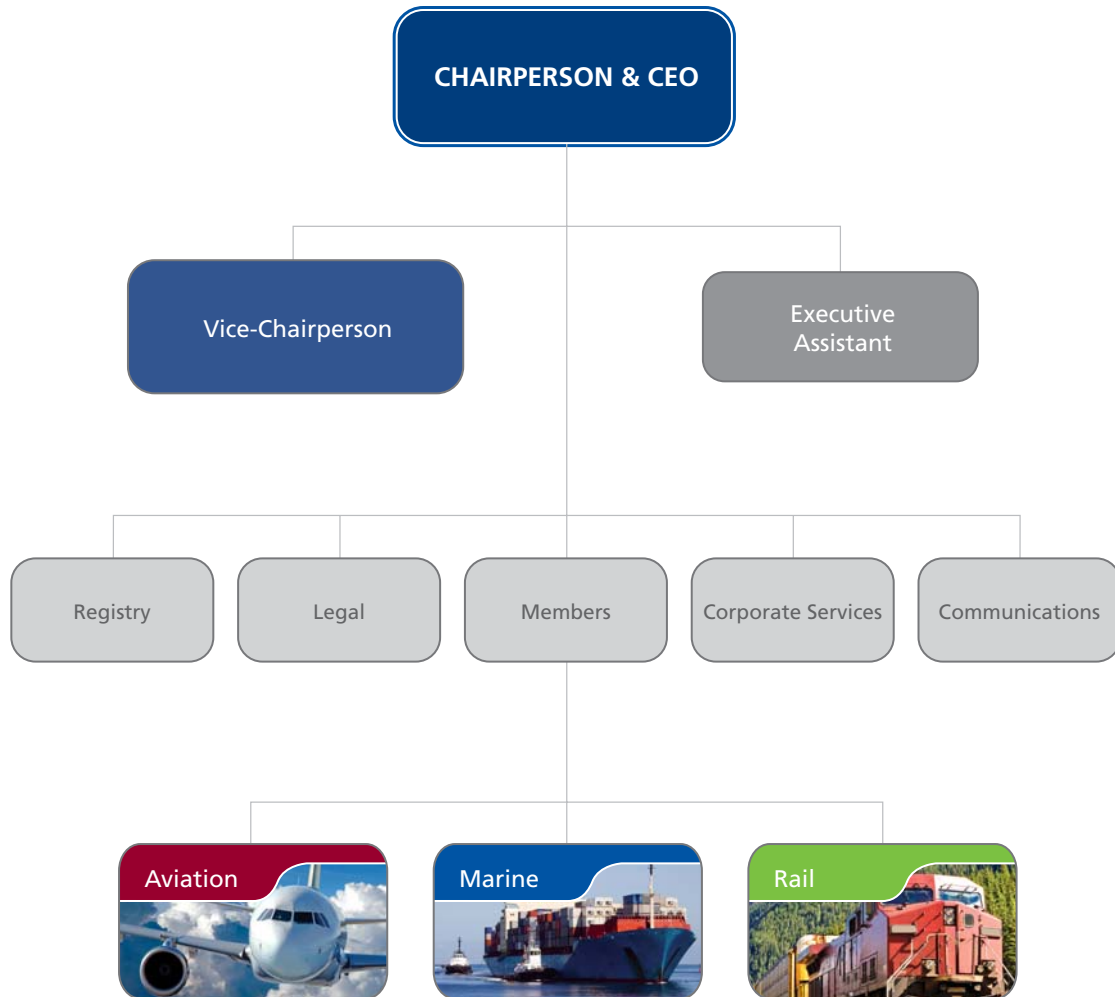
The Tribunal offers its services in both official languages of Canada. It is also itinerant, in the sense that its Review and Appeal Hearings take place throughout Canada, at the convenience of the parties to the extent possible.

In enforcement matters, the location will normally be where the alleged infraction occurred, or the nearest practical alternative, so that witnesses for the parties may present themselves with minimum displacement costs.

In medical cases, hearings will be held at the location which is nearest to the residence of the document holder and attainable by way of commercial transportation.



## ORGANIZATION CHART



\* Twelve full-time equivalents (FTEs) are utilized by the continuing full-time employees, including the Chairperson and Vice-Chairperson. The seventeen part-time Members utilize approximately three full-time equivalents. During fiscal year 2009-2010, four part-time Members were renewed and one new part-time Member was appointed.



## TRIBUNAL MEMBERS – FULL TIME



**J. Richard W. HALL** – Chairperson & CEO

Appointed to a four year full time term as Chairperson and CEO of the Tribunal, effective November 23, 2009, Mr. Hall holds a Bachelor of Laws degree from the University of Victoria, a Master of Science in Geography and an Honours Bachelor of Arts in Geography from the University of Western Ontario. Prior to his nomination he was a part-time Member at the Tribunal.

He began his legal career in 1984 holding various legal and management roles with Chevron Canada Limited. From 1989 to 1994, he worked for the Province of British Columbia with three different administrative tribunals – labour relations, public sector compensation and criminal injuries compensation, providing advice in law and policy. From 1995 to 1997, he was a Senior Labour Relations Officer for Vancouver Hospital and Health Sciences Centre, after which he became Legal Counsel for the Vancouver School Board until 2001. That same year, he became Regional Director of Human Resources and Compensation for Physicians at the Vancouver Coastal Health Authority, a position he held until 2005. From 2005 to 2009 he provided business and law advice to both the private and public sectors. Immediately prior to his appointment he was an Adjudicator with the Alberta Solicitor General.

Mr. Hall is a Member of the Law Society of British Columbia and the Canadian Bar Association, and has served on the Boards of Directors of publicly traded and private sector companies. Mr. Hall was born in Montreal and lived in Quebec and Ontario before moving to British Columbia in 1980.



**Eleanor D. HUMPHRIES** – Vice-Chairperson

Appointed to a five-year full time term as Vice-Chairperson of the Tribunal, effective March 3, 2008, Ms. Humphries holds a Bachelor of Science and a Master's in Business Administration from Dalhousie University in Halifax, Nova Scotia. She also has an executive management diploma from McGill University in Montreal, Quebec.

Ms. Humphries worked in various management positions of increasing seniority within the financial services industry, including management positions within the Bank of Nova Scotia from 1985 to 1999 and the Montreal Trust Company from 1999 to 2000. She was the President and Chief Executive Officer of Credit Union Atlantic from 2000 to 2005 and of Halifax International Airport Authority from 2005 to 2007. In 2004, Ms. Humphries received a Distinguished Alumni Award from Armbrae Academy. In 2006, she received the Canadian Progress Club Women of Excellence Award for leadership. She has been honored on five occasions as one of the Top 50 CEOs in Atlantic Canada and in 2007 she was inducted into the Top 50 CEOs Atlantic Canada Hall of Fame. Ms. Humphries holds several board positions with business, charitable and educational organizations.

## TRIBUNAL MEMBERS – PART-TIME

**François AUDETTE** – Salaberry-de-Valleyfield, Quebec

» Appointed to a part-time term of four years on May 9, 2008.

Mr. Audette holds a Bachelor's Degree in Mechanical Engineering from the Université du Québec and a Degree in Aeronautical Fabrication from Collège Édouard-Montpetit. He is a Manager for SGS Canada and past President of Québec Levage Expert, a company specializing in lifting devices. He previously worked as an Engineering, Production and Quality Director with two Montreal-area companies, and as a teacher at the Collège de Valleyfield.

**Howard M. BRUCE** – Sainte-Foy, Quebec

» Appointed to a part-time term of four years on October 30, 2009.

Mr. Bruce is a Partner at a law firm, in the city of Quebec, where he practises law, including transportation law relating to the Commission des transports du Québec, the *Canada Transportation Act*, the *Aeronautics Act* and the *Railway Safety Act*. He received his Law Degree at the University of Ottawa Law School in 1990 and was called to the Barreau du Québec in 1992. Mr. Bruce has varied and impressive experience in litigation and representation before all levels of Quebec courts.

**Danièle DION** – Kirkland, Quebec

» Appointed to a part-time term of four years on May 9, 2008.

Ms. Dion holds a Bachelor of Arts Degree in Social Communication, a Licence in Civil Law and a Bachelor's Degree in Common Law from the University of Ottawa. She also holds a Master's Degree in Maritime and International Law from Dalhousie University. She was called to the Barreau du Québec in 1985. She currently is a Partner in a Law Firm specializing in Admiralty Litigation, Transportation and Insurance Laws. She is a Director of the Canadian Maritime Law Association and a Member of the Editorial Board of the *Journal of Maritime Law and Commerce*.

**Michel FERLAND** – Sainte-Marcelline, Quebec

» Appointed to a part-time term of four years on June 4, 2007.

Mr. Ferland holds a Bachelor of Arts Degree from Collège Jean-De-Brébeuf, and a Licentiate in Laws Degree from the Université de Sherbrooke. He was called to the Barreau du Québec in 1973. He currently is a Law Associate with a Law Firm in Joliette, Quebec. He entered into private practice in 1973. He became



## TRIBUNAL MEMBERS – PART-TIME

a Prosecutor for the city of Joliette in 1985, and was a Member of the Human Rights Tribunal Committee from 1991 to 1993. Mr. Ferland is a Member of the Canadian Bar Association, a Member of and former Legal Advisor to the Barreau des Laurentides, and a former Member of the Comité pour la pratique privée – Barreau du Québec – Tarification. He has been involved in a number of community organizations in the Lanaudiere region since 1973.

**Dr. Trevor Allan GILLMORE** – Kleinburg, Ontario

» Appointed to a part-time term of three years on May 9, 2008.

Dr. Gillmore holds a Doctor of Medicine Degree from McMaster University. In 2008, he received his Fellowship in Occupational Medicine and completed a Master's Degree in Aviation Medicine through Otago University in New Zealand. He currently serves as a Provincial Coroner for Ontario. He is also a Flight Surgeon and Pilot for Air Canada and a Medical Support Specialist for the Transportation Safety Board of Canada. He was previously an Emergency Room Physician at three Greater Toronto Area hospitals. He has worked and trained extensively in the forensic sciences field and is a member of a number of committees and associations, including the College of Physicians and Surgeons of Ontario and the Canadian Aerospace Medical Association.

**Maurice JAQUES** – Pointe-Claire, Quebec

» Appointed to a part-time term of four years on May 9, 2008.

Mr. Jaques studied at Lower Canada College and McGill University before entering the maritime insurance business. He became President of Eastern Marine Underwriters, serving insurance brokers across Canada in marine cargo, hull and liability insurance and related claims. Following a merger with the Maritime Insurance Company in 1995, he became Managing Director of the Montreal office and occupied that position until his retirement. During his career, he was President of the Canadian Board of Marine Underwriters for two separate terms. He was President of the International Union of Marine Insurance from 1988 to 1991. He also served as Deputy Chairman of the Canadian Committee of Lloyd's Register of Shipping. He recently completed a six-year term as a Member of the Audit Committee of the International Oil Pollution Compensation Fund.



## TRIBUNAL MEMBERS – PART-TIME

### **C. Michael** KEEFE – Mount Pearl, Newfoundland and Labrador

» Appointed to a part-time term of three years on September 4, 2008.

Mr. Keefe graduated from the Canadian Coast Guard College in 1974. Mr. Keefe is a Registered Professional Engineer practising in the province of Newfoundland and Labrador. As well, he holds a Certificate of Competency issued by the Government of Canada as a First Class Marine Engineer. Mr. Keefe spent several years with the Canadian Coast Guard serving as a Ship's Engineering Officer and Chief Engineer and later ashore, as the Supervisor of Engineering for the Newfoundland Region. He then spent several years with Transport Canada Marine Safety as the Manager of Examinations and Enforcement for the Atlantic Region. He has held ministerial appointments with Marine Safety as a Steamship Inspector, Examiner of Engineers, Pollution Prevention Officer and Health and Safety Officer. Since 2006, Mr. Keefe has been employed as Manager of Marine Fleet Maintenance with Diesel Injection Sales & Service Ltd. of Mount Pearl in Newfoundland.

### **Dr. Michel** LAROSE – Montréal, Quebec

» Reappointed to a part-time term of four years on June 19, 2009.

Dr. Larose graduated in Medicine from the Université de Montréal in 1965, and he is currently a Medical Assessor at the Commission des lésions professionnelles. Dr. Larose was previously in private practice and associated with several Montreal area hospitals. He was Medical Director for several organizations, including Québecair, and was a Civil Aviation Medical Examiner for Transport Canada. Dr. Larose is a Former Investigative coroner for the province of Quebec. In the past, he has held a Private Pilot Licence.

### **Herbert** LEE – Richmond, British Columbia

» Appointed to a part-time term of three years on September 20, 2007.

Mr. Lee is the Managing Director of a Vancouver-based travel agency. He is also a Licensed Private Pilot and a Certified Travel Manager. Mr. Lee is a member of the Richmond Chamber of Commerce, the Hong Kong Aviation Club and the Royal Canadian Mounted Police Advisory Committee for Multiculturalism in Richmond and a past Member of the Hong Kong Chamber of Commerce. He has studied at Simon Fraser University, the Hong Kong Polytechnic University and the Royal Navy School in the United Kingdom.



## TRIBUNAL MEMBERS – PART-TIME

**Barrie LEPITRE** – Gloucester, Ontario

» Appointed to a part-time term of four years on December 3, 2007.

Mr. LePitre holds a Bachelor of Arts Degree from Carleton University in Ottawa, and a Bachelor of Laws Degree from Osgoode Hall Law School of York University in Toronto. He began his career in 1977, as Counsel for the Commercial and Property Law Section of the Regional Office of Justice Canada in Toronto, Ontario. In 1983, he began serving as Counsel with the Department's Legal Services offices in Ottawa. Recently retired, Mr. LePitre served as Counsel, Senior Counsel and General Counsel to many client departments during his 30-year career. Of special note is his service as General Counsel for transport from 1996-2007, during which time he provided a wide range of advisory legal services with respect to the marine component of Transport Canada, particularly concerning the *Canada Marine Act*. Mr. LePitre is a member of the Law Society of Upper Canada and a notary public for the Province of Ontario.

**Elizabeth MACNAB** – Ottawa, Ontario

» Appointed to a part-time term of four years on December 3, 2007.

Ms. MacNab holds a Bachelor of Laws degree from the University of Toronto, a Diploma in Legislative Drafting and a Licentiate in Laws Degree from the University of Ottawa. She was called to the Bar of Ontario in 1967. She began her legal career as Counsel for a private law firm and participated in studies with the Law Reform Commission of Ontario. From 1981 to 1986, she worked as a Legislative Officer with Transport Canada's Aeronautics Act Task Force. In 1986, she moved to the Department's Aviation group, where she oversaw the preparation of draft regulations for review by Justice Canada, and provided policy advice on amendments to Federal Transportation Acts. In 1990, she became Counsel for Transport Canada, providing legal advice on matters relating to various modes of transportation and administrative law. Ms. MacNab also represented the Department at international conferences and committees on aviation-related matters.

**Franco PIETRACUPA** – Dollard-des-Ormeaux, Quebec

» Appointed to a part-time term of four years on June 18, 2008.

Mr. Pietracupa received his College Diploma in Aeronautical Pilot Instruction in 1997. He has worked for various companies in aviation, including CESPFA Flight College, and has held the position of Class 1 instructor/chief flight instructor from 1997 to 2000 in different flight training organizations. With his extensive



## TRIBUNAL MEMBERS – PART-TIME

experience as a Flight Instructor and operator, he was designated as flight test examiner with Transport Canada. Since April 2000, Mr. Pietracupa has held the position of Manager of Business Aircraft Flight Training, Global and Challenger programs at Bombardier Aerospace in Montreal.

**Suzanne RACINE** – Kirkland, Quebec

» Reappointed to a part-time term of three years on November 30, 2009.

Ms. Racine, a Lawyer since 1980, holds a Licence in Civil Law from the University of Ottawa (1979), Mediator Training (1992) and a Master's Degree from the Institute of Air and Space Law, McGill University (1987). She was a Director of Regulatory and Government Affairs at Air Transat and has acted as a Consultant in the areas of travel and air transport. Ms. Racine is a Member of the Barreau du Québec and the Institute of Air and Space Law Association.

**Stephen ROGERS** – Vancouver, British Columbia

» Appointed to a part-time term of four years on November 23, 2009.

Mr. Rogers was a Member of the British Columbia Legislative Assembly for 16 years. He served as a Cabinet Minister in several portfolios, including as Minister of Transportation and Highways, and as Speaker and Deputy Speaker of the House. He began his career as a Pilot with the Royal Canadian Air Force and flew commercial aircraft with Air Canada prior to and after his career in politics.

**Arnold Price VAUGHAN** – Calgary, Alberta

» Appointed to a part-time term of three years on September 20, 2007.

Mr. Vaughan began his career by enrolling in the Canadian Armed Forces Regular Officers Training Plan as an Officer Cadet in 1966 and was then trained as a Military Pilot. He served for 18 years in the regular and reserve forces and gained senior officer status. He currently possesses both Canadian and American Airline Transport Pilot Licences and a Commercial Helicopter Licence. He retired as Captain from Air Canada. He is a member of the Royal Aeronautical Society, the Aviation Security Association of America International and the Council of Aviation Accreditation. Mr. Vaughan holds a Bachelor of Arts from the University of Waterloo and a Master of Business Administration, with a Major in Aviation and International Business, from Concordia University.



## TRIBUNAL MEMBERS – PART-TIME

**Dr. James M. WALLACE** – Ottawa, Ontario

» Appointed to a part-time term of four years on April 11, 2008.

Dr. Wallace holds a Bachelor of Medicine and Surgery from the University of Edinburgh, Scotland, and a Diploma in Aviation Medicine from the Royal College of Physicians of London. He is also a Fellow of the Aerospace Medical Association. Dr. Wallace started his career with general medical practice in Nova Scotia and the West Indies, and in 1980, he joined Transport Canada Aviation as a Regional Aviation Medical Officer for the Ontario region. Prior to his retirement in 2005, Dr. Wallace was Senior Consultant, Policy and Planning, and was also the Chairman of the Aviation Medical Review Board. Dr. Wallace is also very active in his community. He is a Member of the Aerospace Medical Association and the International Academy of Aviation and Space Medicine and a former Member of the Canadian Medical Association.

**Richard WILLEMS** – Alton, Ontario

» Reappointed to a part-time term of four years on January 25, 2010.

Mr. Willems is the Senior Captain Flying a Canadair Challenger for Rogers Communications in Toronto. His flying career began in central Saskatchewan in 1963 and has continued through North, Central and South America as well as Africa, Asia and Europe. Mr. Willems has held Transport Canada check pilot authority since 1976 on various piston, turbo-prop and jet aircraft. He has accumulated over 22 000 hours on 124 types of airplanes and gliders. In his spare time he enjoys flying his ASW-27b sailplane on long cross country flights.



## TRIBUNAL RULES



SOR/86-594, effective June 1, 1986 and amendment SOR/93-346, June 16, 1993

### RULES GOVERNING THE PRACTICE AND PROCEDURE IN CONNECTION WITH MATTERS DEALT WITH BY THE TRANSPORTATION APPEAL TRIBUNAL OF CANADA

#### SHORT TITLE

1. These Rules may be cited as the *Transportation Appeal Tribunal of Canada Rules*.

#### INTERPRETATION

2. In these Rules,  
“Act” means the *Aeronautics Act*, the *Canada Shipping Act, 2001*, the *Marine Transportation Security Act*, the *Railway Safety Act*, or the *Canada Transportation Act* [s. 2 of the *Transportation Appeal Tribunal of Canada Act*]; (*Loi*)

“party” means a party to a proceeding; (*partie*)

“proceeding” means a review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act*; a review under sections 16.1, 20.4, 231.2, or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*; a review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*; a review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*; a review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation Act*; (*instance*)

“registrar” means a registrar of the Tribunal, and includes a deputy registrar; (*greffier*)

“registry” means the principal office of the Tribunal in the National Capital Region or such other offices as the Tribunal may establish from time to time. (*greffe*)

#### APPLICATION

3. These Rules apply to all proceedings.



## TRIBUNAL RULES

### GENERAL

4. Where a procedural matter not provided for by the Act or by these Rules arises during the course of any proceeding, the Tribunal may take any action it considers necessary to enable it to settle the matter effectively, completely and fairly.

### SERVICE

5. Service of a document, other than a summons referred to in section 14, shall be effected by personal service or by registered mail.
6. Where service of a document is effected by registered mail, the date of service is the date of receipt of the document.

### FILING

7. Where a party is required or authorized to file a document with the Tribunal, the document may be filed by depositing it in the registry personally, by mailing it or sending it by courier to the registry or by transmitting it to the registry by telex, facsimile or other electronic means of communication if the registry has the necessary facilities for accepting transmission in such manner.
8. The date of filing of a document with the Tribunal is the date of receipt of the document at the registry, as evidenced on the document by means of the filing stamp of the Tribunal.

### HOLIDAY

9. Where a time limit prescribed by or pursuant to the Act or these Rules falls on a Saturday, Sunday or holiday, the time limit is extended to the next following business day.

### APPLICATIONS

10. (1) An application for any relief or order, other than a request for review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act*; a request for review under sections 16.1, 20.4, 231.2 or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*; a request for review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*; a request for review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*; a request for review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation Act*, shall be in writing

## TRIBUNAL RULES

and filed with the Tribunal unless, in the opinion of the Tribunal, circumstances exist to allow an application to be dealt with in some other manner.

- (2) An application shall fully set out the grounds on which it is based and shall specify the relief or order requested.
- (3) Subject to subsection (4), where a party makes an application, the Tribunal shall serve notice of the application on each other party and shall afford each other party a reasonable opportunity to make representations.
- (4) The Tribunal may dispose of an application on the basis of the material submitted by each party or, if in its opinion there exist exigent circumstances, on the basis of the material submitted by the applicant only.
- (5) The Tribunal, upon considering the material submitted to it, shall render its determination of an application in writing and shall serve on each party a copy of the determination forthwith after the determination has been rendered.

### EXTENDING OR ABRIDGING TIME

11. The Tribunal may extend or abridge a time prescribed by or pursuant to these Rules for performing any act or doing any thing on such terms, if any, as seem just.

### PRELIMINARY PROCEDURES

12. The Tribunal may, orally or in writing, direct that the parties appear before a member of the Tribunal at a specified date, time and place for a conference, or consult each other and submit suggestions in writing to the Tribunal, for the purpose of assisting it in the consideration of
  - (a) the admission or proof of certain facts;
  - (b) any procedural matter;
  - (c) the exchange between the parties of documents and exhibits proposed to be submitted during a proceeding;
  - (d) the need to call particular witnesses; and
  - (e) any other matter that may aid in the simplification of the evidence and disposition of the proceeding.

### ADJOURNMENTS

13. At any time, the Tribunal may, on the application of any party or on its own motion, adjourn a proceeding on such terms, if any, as seem just.



## TRIBUNAL RULES

### WITNESSES

14. (1) At the request of a party, the registrar shall issue a summons in blank for a person to appear as a witness before the Tribunal and the summons may be completed by the party requesting it.
- (2) A summons shall be served personally on the person to whom it is directed at least 48 hours before the time fixed for the attendance of the person.
- (3) At the time of service of a summons on a person, the party requesting the appearance of the person shall pay fees and allowances to the person in accordance with Rule 42 of the *Federal Courts Rules*.

15. (1) Where a person has been summoned to appear as a witness before the Tribunal and does not appear, the party that requested the issuance of the summons may apply to the Tribunal for a warrant directing a peace officer to cause the person who failed to appear to be apprehended anywhere in Canada and, subsequent to the apprehension, to be
- (a) detained in custody and forthwith brought before the Tribunal until his presence as a witness is no longer required; or
- (b) released on a recognizance, with or without sureties, conditional on the person's appearance at the date, time and place specified therein to give evidence at a proceeding.
- (2) An application made pursuant to subsection (1) shall contain information indicating that
- (a) the person named in the summons
- (i) was served with the summons in accordance with subsection 14(2),
- (ii) was paid or offered witness fees and allowances in accordance with subsection 14(3), and
- (iii) failed to attend or remain in attendance before the Tribunal in accordance with the requirements of the summons; and
- (b) the presence of the person named in the summons is material to the proceeding.

### PROCEEDING

16. (1) Witnesses at a proceeding shall be subject to examination and cross-examination orally on oath or solemn affirmation.
- (2) The Tribunal may order a witness at a proceeding to be excluded from the proceeding until called to give evidence.
- (3) The Tribunal may, with the consent of each party, order that any fact be proved by affidavit.
- (4) The Tribunal may inspect any property or thing for the purpose of evaluating the evidence.

## TRIBUNAL RULES

### ARGUMENT

17. The Tribunal may direct a party to submit written argument in addition to oral argument.

### APPEALS

18. (1) An appeal to the Tribunal pursuant to sections 7.2 or 8.1 of the *Aeronautics Act*, sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*, sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*, sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*, or section 180.6(1) of the *Canada Transportation Act* shall be commenced by filing in writing with the Tribunal a request for appeal.

(2) A request for appeal shall include a concise statement of the grounds on which the appeal is based.

(3) A copy of a request for appeal shall be served by the Tribunal on each other party within ten days after filing the request.

19. Where a request for appeal has been filed with the Tribunal, the Tribunal shall serve on the parties to the appeal

(a) a notice of the date, time and place of the hearing of the appeal; and

(b) a copy of the record referred to in section 20 of the *Transportation Appeal Tribunal of Canada Act*, respecting the proceedings to which the appeal relates.

### DETERMINATION

20. (1) The Tribunal shall render its determination in writing at the conclusion of a proceeding or as soon as is practicable after a proceeding.

(2) For the purpose of calculating the period within which a party may appeal a determination, the determination is deemed to be made on the day on which it is served on the party.

(3) The Tribunal shall serve on each party a copy of a determination forthwith after the determination has been rendered.

**These Rules contain consequential amendments in the *Transportation Appeal Tribunal of Canada Act* and have been embodied for convenience of reference only. For purposes of interpretation of the law, the original Rules should be consulted.**



## 2009-2010 IN REVIEW



**In the 2009-2010 reporting period, 87 cases were concluded without a hearing.**

### Activities

This annual report covers the twelve months between April 1, 2009, and March 31, 2010. In this reporting period, the Tribunal registered 130 new requests for review (91 aviation, 32 marine and 7 from the Canadian Transportation Agency) and 16 requests for appeal from the aviation sector. This represents an increase of 27 new case files registered over fiscal year 2008-2009. Additionally, 37 requests for certificates were received from the Minister, pursuant to section 7.92 of the *Aeronautics Act*.

In addition to the new cases registered in this reporting period, 115 cases were carried over from the previous reporting period, bringing the total caseload to 261. This represents an increase of 45 cases over 2008-2009.

The Tribunal heard 34 first level reviews (19 aviation, 14 marine and 1 Canadian Transportation Agency) and 9 second level appeals for a total of 54 hearing days. This represents an increase of 5 hearings over the previous fiscal year. Of the 43 cases that proceeded to a hearing, many cases were postponed and rescheduled at a later date. At the end of 2009-2010, 102 cases were pending further action, 19 were awaiting decisions and 17 had been scheduled for the 2010-2011 fiscal year.

In the 2009-2010 reporting period, 87 cases were concluded without a hearing. It should be noted that of these 87 cases many were requests filed with the Tribunal and concluded shortly before the hearing was to take place, which means that all registry work that leads up to the hearing was completed. The Registry prepared for 65 hearings.

## 2009-2010 IN REVIEW



**In 2009-2010, the Tribunal did not refer any cases back to the Minister for reconsideration.**

The 87 cases concluded without a hearing were resolved in a number of ways: the document holder paid the fine before the hearing; the document holder's licence was reinstated before the hearing; the request for hearing was withdrawn by the document holder; the notice was withdrawn by the Minister; or an agreement was reached between the parties.

### Effectiveness

The Tribunal's effectiveness can be measured by its ability to provide the Canadian transportation community with the opportunity to have Ministerial decisions reviewed fairly, equitably and within a reasonable period of time.

The average lapsed time between the conclusion of a Review Hearing and the issuance of a determination is 130 days and 120 days for an Appeal Hearing. This brings the hearing process to a timely conclusion for both parties appearing before the Tribunal.

The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal and to disclose and exchange documents. This reduces the length of hearings and avoids last-minute adjournments necessitated by late disclosure.

Facilitating discussions before the parties have also been particularly effective in settling licence suspensions and the refusal to renew on medical grounds without the necessity of a hearing. The Tribunal Registrars contact the parties to schedule mutually agreed hearing dates to the extent possible to avoid unnecessary adjournments.

In 2008-2009, the Tribunal referred 2 aviation cases back to the Minister of Transport for reconsideration, pursuant to section 7.1 of the *Aeronautics Act*, the Tribunal lacking the power to substitute its own decision for that of the Minister in these cases. The Minister confirmed its original decision in 1 case, and we are still awaiting the outcome in the other case.

In 2009-2010, the Tribunal did not refer any cases back to the Minister for reconsideration.



## 2009-2010 IN REVIEW



### Training and Development

When new Members are appointed, they receive in-house training in all aspects of administrative law and the conduct of Review and Appeal Hearings. As well, external legal counsel is available to assist during pre-hearing, hearing and post hearing matters. Internally, the staff is encouraged to undergo annual professional education.

The Tribunal's success can, in great part, be attributed to the importance placed on the training and development of its Members and staff.



The quality of the hearings which are held across the country and the decisions which are rendered are reflective of the high level of experience possessed by and the training provided to all Tribunal Members.

### Annual Seminar

To address cost containment initiatives, the 2009 annual seminar was cancelled.



With the anticipated pending appointments of new Members, the Tribunal plans to hold an annual seminar in 2010. This will ensure that both staff and Members are apprised of recent developments in administrative law and transportation legislative issues.

### Future Plans



The Tribunal's jurisdiction was increased to include the *International Bridges and Tunnels Act*. Regulations relating to the marine sector came into effect in the last quarter of 2007-2008. As well, it is expected that 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 unpredictable workload of the Tribunal.

With the prediction of an increased caseload of as much as fifty percent to include the marine sector, the Tribunal will be seeking additional funding to sustain its multi-transportation modal administrative law mandate.

The most significant upcoming challenge for the Tribunal will be the realization of its expansion as a multi-modal transportation tribunal addressing the air, marine and rail sectors. The reorganization of the Tribunal will increase the overall workload and require expansion of capacity in new areas of expertise and more Members will have to be appointed and trained. Existing employees will likely require additional training and new staff will have to be hired to ensure that the current high level of efficiencies and professionalism will be maintained.

## 2009-2010 IN REVIEW

## Resources

## FINANCIAL RESOURCES – Details of Financial Requirements by Object

(Thousands of dollars)	Budget 2009-2010	Actual Expenses 2009-2010	Estimates 2008-2009
<b>PERSONNEL</b>			
Salaries and wages	794.5	668.7	741.9
Contributions to employee benefit plans	134.1	123.5	131.6
<b>Total personnel</b>	<b>928.6</b>	<b>792.2</b>	<b>873.5</b>
<b>GOODS AND SERVICES</b>			
Transportation and communications	245.2	140.8	202.7
Information and printing services	45.0	37.4	29.0
Professional and special services	375.0	299.3	167.2
Rentals	40.0	32.7	24.1
Purchased, repairs and upkeep	85.0	79.4	532.0
Utilities, materials and supplies	70.0	47.4	28.0
<b>Total goods and services</b>	<b>860.2</b>	<b>637.0</b>	<b>982.9</b>
<b>GRAND TOTAL</b>	<b>1 788.8</b>	<b>1 429.2</b>	<b>1 856.4</b>

## DISTRIBUTION OF FULL-TIME EQUIVALENTS

	FTEs*
Governor in Council (GIC)	2
Administrative Services (AS)	7
Information Services (IS)	2
Legal Counsel (LA2B)	1
<b>TOTAL</b>	<b>12</b>

\* FTEs: Full-time equivalent is a measure of human resource consumption.



## STATISTICAL DATA

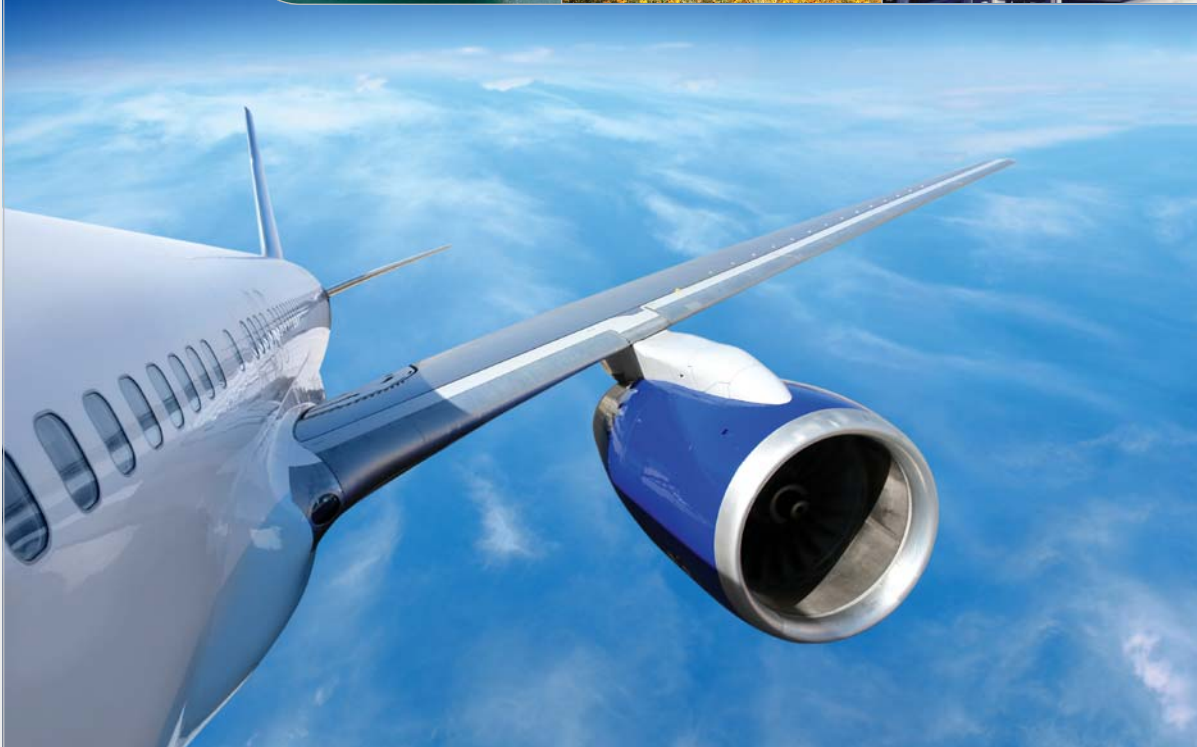
The following pages contain data tables, based on the Tribunal's new requests received during 2009-2010 and files carried over from 2008-2009.

**The tables are separated into various interests.**

- » Comparison of files worked on for the past five fiscal years
- » Hearing results by region and disposition

**The tables are presented under various categories and regions.**

- » Medicals
- » Suspensions
- » Fines
- » Cancellations
- » Refusals to issue
- » Refusals to remove a notation



## STATISTICAL DATA

Fiscal Year 2009–2010

## TOTAL CASES BY CATEGORY

Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS	%
<b>MEDICALS</b>								
Aviation	13	6	14	22	5	2	66	25
Marine	1	0	0	0	0	3		
<b>SUSPENSIONS</b>								
Aviation	9	24	7	8	0	5	53	20
<b>FINES</b>								
Aviation	7	51	8	3	1	6	123	47
Marine	9	0	5	1	24	0		
Canadian Transportation Agency	0	0	0	0	0	8		
<b>CANCELLATIONS</b>								
Aviation	0	1	0	1	0	0	2	1
<b>REFUSALS TO ISSUE</b>								
Aviation	2	6	3	4	0	1	16	6
<b>REFUSALS TO REMOVE A NOTATION</b>								
Aviation	0	0	0	0	0	1	1	1
<b>TOTALS</b>	<b>41</b>	<b>88</b>	<b>37</b>	<b>39</b>	<b>30</b>	<b>26</b>	<b>261</b>	<b>–</b>
<b>%</b>	<b>16</b>	<b>34</b>	<b>14</b>	<b>15</b>	<b>11</b>	<b>10</b>	<b>–</b>	<b>100</b>

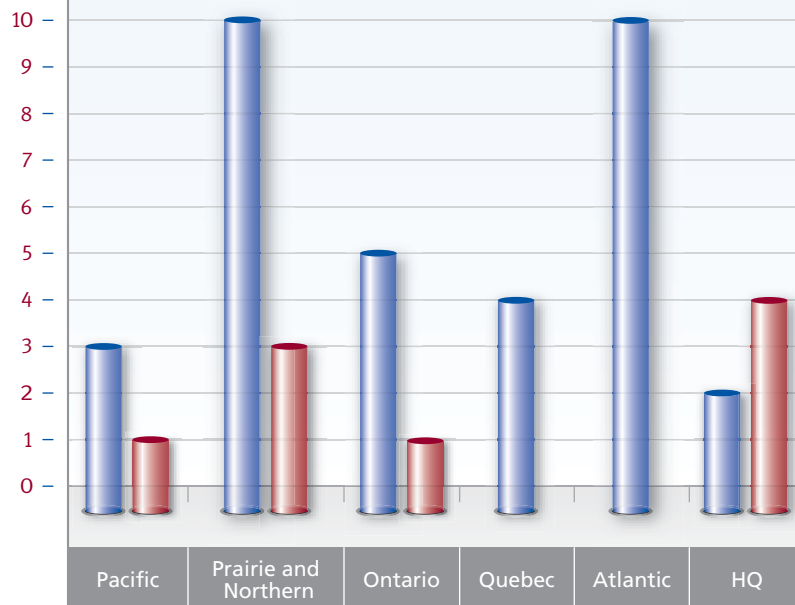


## STATISTICAL DATA

Fiscal Year 2009–2010

### REVIEWS AND APPEALS CONCLUDED WITH A HEARING

Hearing Level	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS	%
<b>REVIEWS</b>								
Aviation	1	10	4	3	1	0	34	79
Marine	2	0	1	1	9	1		
Canadian Transportation Agency	0	0	0	0	0	1		
<b>APPEALS</b>								
Aviation	1	3	1	0	0	4	9	21
<b>TOTALS</b>	<b>4</b>	<b>13</b>	<b>6</b>	<b>4</b>	<b>10</b>	<b>6</b>	<b>43</b>	
<b>%</b>								<b>100</b>

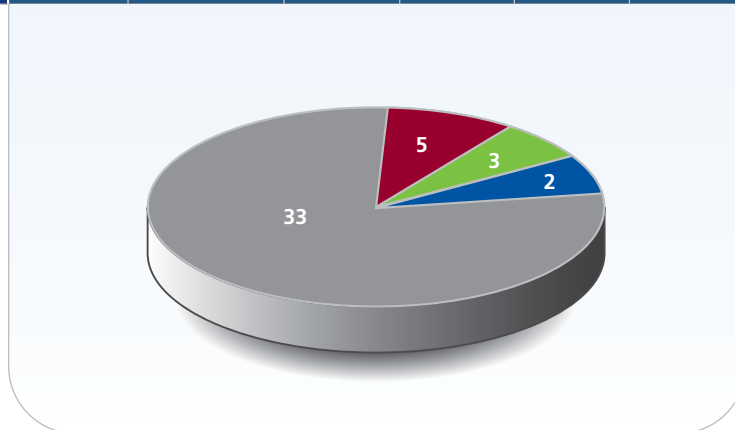


● Reviews ● Appeals

## STATISTICAL DATA

Fiscal Year 2009–2010

HEARINGS BY CATEGORY							
Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
<b>MEDICALS</b>							
Aviation	0	0	0	2	0	0	3
Marine	0	0	0	0	0	1	
<b>SUSPENSIONS</b>							
Aviation	2	1	0	1	0	1	5
<b>FINES</b>							
Aviation	0	11	4	0	1	3	33
Marine	2	0	1	1	9	0	
Canadian Transportation Agency	0	0	0	0	0	1	
<b>REFUSALS TO ISSUE</b>							
Aviation	0	1	1	0	0	0	2
<b>TOTALS</b>	<b>4</b>	<b>13</b>	<b>6</b>	<b>4</b>	<b>10</b>	<b>6</b>	<b>43</b>



● Medicals   
 ● Suspensions   
 ● Fines   
 ● Refusals to Issue



## STATISTICAL DATA

Fiscal Year 2009–2010

## HEARING RESULTS BY DISPOSITION

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
<b>SUSPENSIONS (Aviation)</b>							
Minister's allegation dismissed	1	0	0	0	0	0	1
Minister's decision confirmed	0	1	0	0	0	0	1
Awaiting decision	1	0	0	1	0	1	3
<b>TOTALS</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>5</b>
<b>FINES (Aviation, Marine and CTA*)</b>							
<b>Minister's allegation upheld</b>							
Aviation	0	3	2	0	0	0	9
Marine	0	0	1	1	2	0	
<b>Minister's allegation dismissed</b>							
Aviation	0	1	1	0	0	0	4
Marine	0	0	0	0	2	0	
<b>Agreement reached at hearing</b>							
Aviation	0	1	0	0	0	0	5
Marine	0	0	0	0	4	0	
<b>Awaiting decision</b>							
Aviation	0	6	1	0	0	3	15
Marine	2	0	0	0	2	0	
CTA*	0	0	0	0	0	1	
<b>TOTALS</b>	<b>2</b>	<b>11</b>	<b>5</b>	<b>1</b>	<b>10</b>	<b>4</b>	<b>33</b>

\* Canadian Transportation Agency

## STATISTICAL DATA

Fiscal Year 2009–2010

HEARING RESULTS BY DISPOSITION *(continued)*

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
<b>MEDICALS (Aviation, Marine)</b>							
Minister's decision upheld	0	0	0	1	0	0	3
Certificate reinstated	0	0	0	1	0	0	
Awaiting decision (marine)	0	0	0	0	0	1	
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>3</b>

## REFUSAL TO ISSUE (Aviation)

Minister's decision confirmed	0	1	0	0	0	0	1
Appeal dismissed; decision upheld	0	0	1	0	0	0	1
<b>TOTALS</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>

## COMPARISON OF CASES WORKED ON FOR THE PAST FIVE YEARS

Region	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Pacific	41	33	43	48	57
Prairie and Northern	88	71	82	50	64
Ontario	37	40	42	46	92
Quebec	39	45	59	44	43
Atlantic	30	16	20	11	11
HQ	26	11	12	12	5
<b>TOTALS</b>	<b>261</b>	<b>216</b>	<b>258</b>	<b>211</b>	<b>272</b>

Since its inception in 1986, the Tribunal has registered 6 556 case files.



## STATISTICAL DATA

Fiscal Year 2009–2010

### TOTAL CASE FILES SINCE 1986

Summary	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
Total case files	799	2 002	1 655	1 420	509	171	6 556
%	12	31	25	22	8	2	100

### TOTAL CASES CONCLUDED WITH A HEARING BY REGION SINCE 1986

Summary	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
Total hearings	180	632	338	382	148	33	1 713
%	10	37	20	22	9	2	100

Of the 1 713 cases concluded with a hearing, 1 373 were reviews (80%) and 340 were appeals (20%).

### CASELOAD FOR THE PAST FIVE YEARS

	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
New requests	130	112	141	89	128
Settled without a hearing	87	75	125	52	113
Review hearings	34	30	29	28	49
Appeal hearings	9	8	8	11	14

