

## The CITT Does Not Like Messy Appeals

March 9, 2016

The *Worldpac Canada v. President of the Canada Border Services Agency* case (AP-2014-021) released by the Canadian International Trade Tribunal (“CITT”) on March 8, 2016 contains a few paragraphs that do not hide the CITT’s frustration with the appeal paperwork in this case. Member Downey states in the Reasons:

“... the Tribunal also wishes to note the general disorganization of the present case from its inception. For some time, it was quite difficult for the Tribunal to determine, with any given degree of precision, which goods were actually the subject of the appeal. The submissions filed by Worldpac were incoherent, and it was difficult to understand precisely what was being appealed. Only after a series of interventions, teleconferences and a preliminary hearing did the relevant subject matter actually become ascertainable. In that context, it is worthwhile going through a detailed timeline of these events in order to circumscribe the debate.”

This is code to Customs lawyers who appear before the CITT that the CITT is voicing frustration and customs lawyers should take note. In a few paragraphs later in the Reasons, we read more about the state of the filings:

- Paragraph 10 – “On March 25, 2013, the CBSA issued a notice of cancellation in respect of one of the above blanket authorizations, identified as T0324002 (for tariff classification), on the basis that mutual benefits could not be realized. It would later become apparent to the Tribunal that this cancellation occurred because of an apparent lack of general organization and diligence by Worldpac in supplying documents and responding to the CBSA’s queries.”
- Paragraph 19 – “The current appeal was filed with the Tribunal on September 3, 2014. After several delays caused by Worldpac, the Tribunal identified a need to hold three separate teleconferences in an effort to establish which importations were the subject of the appeal and to oblige Worldpac to organize its case and supply adequate documentation in support of its claims.”
- Paragraph 20 – “On May 12 and 14, 2015, the CBSA filed motions with the Tribunal, requesting that the appeal be dismissed on the basis that Worldpac had not complied with the Tribunal’s repeated instructions to clarify the list of transactions under appeal.”
- Paragraph 21 – “Despite the Tribunal’s best efforts, the matter still remained unresolved until a hearing was held on June 10, 2015, at which time the Tribunal, through extensive chronological work with Worldpac, was able to determine that the appeal related to two reject notifications issued by the CBSA on June 5 and 13, 2014....”

The lesson to be learned from this case is that an appeal filed with the CITT must be well organized. While the case was ultimately dismissed based on a jurisdictional issue, the disorganization of the appeal was highlighted in the decision. One can expect that the CITT is sending a message to importers and customs lawyers by highlighting the documentary issues. The message is “We were not happy.”



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