



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

ORDER

Appeal No. AP-2012-035

Canadian Tire Corporation, Limited

v.

President of the Canada Border
Services Agency

*Order issued
Tuesday, October 29, 2013*

IN THE MATTER OF an appeal filed by Canadian Tire Corporation, Limited on September 10, 2012, pursuant to section 59 of the *Special Import Measures Act*, R.S.C. 1985, c. S-15;

AND IN THE MATTER OF a request made by Canadian Tire Corporation, Limited on April 9, 2013, pursuant to subrule 23.1(1) of the *Canadian International Trade Tribunal Rules*, for an order directing the Canada Border Services Agency to disclose to counsel for Canadian Tire Corporation, Limited certain confidential information.

BETWEEN

CANADIAN TIRE CORPORATION, LIMITED

Appellant

AND

**THE PRESIDENT OF THE CANADA BORDER SERVICES
AGENCY**

Respondent

WHEREAS

Canadian Tire Corporation, Limited (CTC) has requested that the Canada Border Services Agency (CBSA) disclose to counsel for CTC certain confidential information used by the CBSA in making its re-assessments that are the subject of the above-referenced appeal.

On May 6, 2013, the Canadian International Trade Tribunal (the Tribunal) reserved judgment on CTC's request until after the CBSA had filed its brief with the Tribunal.

The CBSA filed its brief on September 3, 2013.

On September 27, 2013, CTC filed an updated list of documents of which it seeks disclosure, along with supporting submissions.

On October 11, 2013, the CBSA indicated that it is prepared to disclose the requested confidential information upon the issuance of an order compelling such disclosure, subject to certain confidentiality conditions, including the conditions set out in section 45 of the *Canadian International Trade Tribunal Act (CITT Act)*.

Pursuant to subsection 17(2) of the *CITT Act*, the Tribunal has, as regards the production and inspection of documents, all such powers, rights and privileges as are vested in a superior court of record.

Pursuant to subsection 45(3) of the *CITT Act*, information designated as confidential in any proceedings before the Tribunal may be disclosed by the Tribunal to counsel for any party to those proceedings for use, notwithstanding any other act or law, by that counsel only in those proceedings, subject to any conditions that the Tribunal considers reasonably necessary or desirable to ensure that the information will not, without the written consent of the person who provided the

information to the Tribunal, be disclosed by counsel to any person in any manner that is calculated or likely to make it available to:

- any party to the proceedings or other proceedings, including a party who is represented by that counsel; or
- any business competitor or rival of any person to whose business or affairs the information relates.

Each counsel of record for CTC has filed a Form III Declaration and Undertaking with the Tribunal and has thereby committed, *inter alia*, not to disclose any confidential information received in these proceedings to any person, except those granted access by the Tribunal to such information.

The Tribunal is satisfied that, in these circumstances, the conditions that are reasonably necessary or desirable to ensure that the documents, the disclosure of which is sought, are kept confidential are met.

ORDER

The Tribunal hereby orders the CBSA, pursuant to subsection 17(2) of the *CITT Act*, to file with the Tribunal, not later than November 1, 2013, the exhibits listed as documents 1 to 9 in the appendix to CTC's submissions dated September 27, 2013, and the calculation spreadsheets referred to at paragraph 25 of the CBSA's brief dated September 3, 2013.

Given the volume of the information requested, these documents may be filed in an appropriate electronic format.

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Presiding Member

Serge Fréchette
Serge Fréchette
Member

Ann Penner
Ann Penner
Member

Dominique Laporte
Dominique Laporte
Secretary