



Ottawa, Thursday, October 31, 2002

File Nos. PR-2001-030R and PR-2001-040R

IN THE MATTER OF complaints filed by Hewlett-Packard (Canada) Ltd. under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO a decision of the Federal Court of Appeal, which referred back to the Canadian International Trade Tribunal its determination in File Nos. PR-2001-030 and PR-2001-040 made February 21, 2002, on the basis that the first ground of complaint in File No. PR-2001-030 should be dismissed as being time-barred; and which further quashed the Canadian International Trade Tribunal's recommendation that the contract awarded to IBM Canada Ltd. on September 12, 2001, be terminated and a new solicitation be issued.

DETERMINATION OF THE TRIBUNAL

The Canadian International Trade Tribunal, in accordance with a decision of the Federal Court of Appeal,¹ hereby amends its determination dated February 21, 2002, made in respect of the above-mentioned complaints.

Pursuant to section 10 of the *Canadian International Trade Tribunal Procurement Inquiry Regulations*, the Canadian International Trade Tribunal dismisses the first ground of complaint in File No. PR-2001-030 as not being filed within the time limits set out in section 6 of the *Canadian International Trade Tribunal Procurement Inquiry Regulations*. Given that the Canadian International Trade Tribunal has dismissed, pursuant to section 10 of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* the second and only other ground of complaint, the complaint in File No. PR-2001-030 is dismissed.

The Canadian International Trade Tribunal's determination and recommendation with respect to the complaint in File No. PR-2001-040 remain unchanged.

1. *IBM Canada. v. Hewlett-Packard (Canada)* (4 July 2002), A-173-02 (F.C.A.); *Canada (Attorney General) v. Hewlett-Packard (Canada)* (4 July 2002), A-178-02 (F.C.A.).

The Canadian International Trade Tribunal's cost award is amended to award Hewlett-Packard (Canada) Ltd., pursuant to subsection 30.16(1) of the *Canadian International Trade Tribunal Act*, its reasonable costs incurred in preparing and proceeding with the complaint in File No. PR-2001-040. No other costs are awarded.

Ellen Fry
Ellen Fry
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

James A. Ogilvy
James A. Ogilvy
Member

Michel P. Granger
Michel P. Granger
Secretary