



BY FACSIMILE

December 2, 2004

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Re: Barada Consulting Inc. (File No. PR-2004-043)

The Tribunal has reviewed the complaint dated November 26, 2004, by Barada Consulting Inc. (Barada) regarding procurements by the Canadian Space Agency (CSA). The Tribunal (Presiding Member, Pierre Gosselin) has decided not to initiate an inquiry into this complaint.

The Tribunal has reviewed the information provided and is of the view that the Tribunal does not have jurisdiction to look into the matter. Subsection 7(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (Regulations) sets out three conditions which must be satisfied before the Tribunal may conduct an inquiry in respect of a complaint. One of the conditions is that the complaint be in respect of a designated contract.

A designated contract, according to section 3 of the Regulations, is defined, in part, as a contract concerning a procurement of goods or services by a government institution. In addition, subsection 3(2) defines a government institution, in part, as one of the federal government entities set out in the Schedule of Canada in Annex 1001.1a-1 of the *North American Free Trade Agreement* (NAFTA) or under the heading "CANADA" in Annex 502.1A of the *Agreement on Internal Trade* (AIT).

The CSA is not included in Annex 1001.1a-1 of NAFTA and therefore it is not a government institution as prescribed by the Act. Regarding the application of the AIT, the Tribunal notes that the CSA is not included in Annex 502.1A of the AIT. In addition, the CSA is expressly excluded from the AIT as prescribed in Annex 502.2A of the agreement.

In light of the foregoing, the Tribunal does not have jurisdiction to inquire into the matter within the meaning of paragraph 7(1)(b) of the Regulations as the CSA is excluded from the provisions of NAFTA and the AIT. The Tribunal will not, therefore, conduct an inquiry into this complaint and this matter is hereby concluded.

With respect to your question about what other choices Barada might have besides the Tribunal, I suggest that you consult with legal counsel as there may be other avenues open to you such as the Federal Court.

Yours sincerely,

Hélène Nadeau
Secretary