



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## ORDER AND REASONS

File No. PR-2010-084

Det Norske Veritas (Canada) Ltd.

v.

Department of Public Works and  
Government Services

*Order and reasons issued  
Friday, March 11, 2011*

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IN THE MATTER OF a complaint filed by Det Norske Veritas (Canada) Ltd. pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO a decision to conduct an inquiry into the complaint pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*;

AND FURTHER TO a motion filed by the Department of Public Works and Government Services on February 18, 2011, pursuant to rule 24 of the *Canadian International Trade Tribunal Rules*, requesting an order that the Canadian International Trade Tribunal cease to conduct the inquiry.

**BETWEEN**

**DET NORSKE VERITAS (CANADA) LTD.**

**Complainant**

**AND**

**THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT  
SERVICES**

**Government  
Institution**

**ORDER**

Pursuant to subsection 30.13(5) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal hereby ceases its inquiry into the complaint and terminates all proceedings relating thereto. No costs shall be awarded to either party.

Pasquale Michaele Saroli  
Pasquale Michaele Saroli  
Presiding Member

Dominique Laporte  
Dominique Laporte  
Secretary

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## STATEMENT OF REASONS

### COMPLAINT

1. On January 21, 2011, Det Norske Veritas (Canada) Ltd. (DNV) filed a complaint with the Canadian International Trade Tribunal (the Tribunal) pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*<sup>1</sup> concerning a Solicitation of Interest and Qualification (SOIQ) (Solicitation No. W847S-100009/A) by the Department of Public Works and Government Services (PWGSC), on behalf of the Department of National Defence, for classification society technical support for an upcoming naval project.

2. DNV alleged that the SOIQ itself and the evaluation of DNV's expression of interest and qualification were flawed. More specifically, DNV alleged the following: (1) the SOIQ failed to state that the SOIQ was a mandatory step to qualify for the invitation to bid for the services; and (2) PWGSC evaluated DNV's submission using criteria that were not listed in the SOIQ.

3. DNV requested, as a remedy, that its expression of interest and qualification be accepted or, in the alternative, that the SOIQ be quashed and re-issued and that DNV be permitted to receive notice of, and to participate in, any pending or future procurement process for the services at issue. It also requested complaint costs or, in the alternative, party and party costs and the issuance of a postponement of award of contract order by the Tribunal.

4. On January 28, 2011, the Tribunal informed the parties that the complaint had been accepted, in part, for inquiry pursuant to subsection 30.13(1) of the *CITT Act* as it met the requirements of subsection 30.11(2) and the conditions set out in subsection 7(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations*.<sup>2</sup> The Tribunal advised that it would limit its inquiry to the allegation that DNV's proposal was not evaluated in accordance with the SOIQ, specifically as it related to information that was discovered during a debriefing held on January 12, 2011. The Tribunal did not issue a postponement of award of contract order pursuant to subsection 30.13(3) of the *CITT Act*.

5. On February 18, 2011, PWGSC filed a motion with the Tribunal advising that the procurement process at issue had been cancelled and requesting that the Tribunal cease its inquiry, as there was no longer a procurement process for review by the Tribunal. On February 25, 2011, DNV consented to the motion and submitted that there be “. . . no costs of the motion nor of the proceeding to either party.”

### TRIBUNAL'S ANALYSIS

6. Pursuant to subsection 30.13(5) of the *CITT Act*, the Tribunal may, at any time, cease conducting an inquiry “. . . if it is of the opinion that the complaint is trivial . . .” The ordinary meaning of “trivial” is “. . . concerned only with . . . unimportant matters.”<sup>3</sup>

7. The Tribunal notes that DNV has consented to the cessation of the inquiry. Therefore, the Tribunal finds that the complaint, since its filing with the Tribunal, has been rendered moot and therefore unimportant or, in other words, trivial. It is therefore the Tribunal's decision, pursuant to subsection 30.13(5) of the *CITT Act*, to cease conducting the present inquiry.

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1. R.S.C. 1985 (4th Supp.), c. 47 [*CITT Act*].

2. S.O.R./93-602 [*Regulations*].

3. *Shorter Oxford English Dictionary*, 5th ed., s.v. “trivial”.

**ORDER OF THE TRIBUNAL**

8. Pursuant to subsection 30.13(5) of the *CITT Act*, the Tribunal hereby ceases its inquiry into the complaint and terminates all proceedings relating thereto. No costs shall be awarded to either party.

Pasquale Michaele Saroli  
Pasquale Michaele Saroli  
Presiding Member