



IN THE MATTER OF:

**A Complaint
By Connors Diving Services Ltd.
of Unit 11, 1 Lakeside Place
R.R.#1, Lakeside
Halifax County, Nova Scotia**

**Board File No:
D92PRF66W-021-0033**

Complaint dismissed

AND IN THE MATTER OF:

**The Free Trade Agreement
Implementation Act, Part II, Sec. 15
S.C. 1988, Ch. 65.**

December 10, 1992

DETERMINATION BY THE BOARD

This complaint by Connors Diving Services Ltd. relates to the provision of air compressor units and associated services for the Department of National Defence, as defined in the Request for Proposal (DJ W8462-2-EBA2/00/B (RFP)) dated August 12, 1992. A Notice of Proposed Procurement was published in the Government Business Opportunities on August 11, 1992 with bids closing on September 21, 1992.

The complaint was received by the Procurement Review Board (PRB or the Board) on October 29, 1992 and alleges that the information set forth in the RFP was not representative of the Item 011 description and that the complainant was misled as to the requirements of the proposal. The complainant requested that the Board make a determination to have the contract re-tendered.

The administrative and regulatory requirements all having been satisfactorily met, the Board directed that the complaint be investigated.

After its review of the Governmental Institution Report (GIR) dated November 18, 1992, the complainant sent its comments to the Board in a letter dated December 2, 1992. In the said letter, the complainant concurs with Department of Supply and Services' intention, as expressed in the GIR, to hold a new competition for the requirement.

Notwithstanding the aforementioned, in its letter of December 2, 1992, the complainant maintains its concern about certain exclusive rights being vested in a particular supplier which could affect the competitive process. The Board considered the complainant's comments in respect to this concern and concludes that, as this claim is speculative at this point in time, the complaint must be dismissed in accordance with paragraph 32(1)(a) of the *PRB Regulations* as, on its face, the complaint does not disclose a valid basis.

DETERMINATION

The Board has determined that the first portion of this complaint has, in fact, been withdrawn because of an agreement reached between the parties whereby a new competition would be held for this requirement. The Board hereby dismisses the remaining portion of the complaint as, in the circumstances, it is without valid basis.

J. Craig Oliver
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Chairman
Procurement Review Board of Canada