

Ottawa, Wednesday, September 29, 1999

File No.: PR-98-039

IN THE MATTER OF a complaint filed by Wescam Inc., under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47, as amended;

AND IN THE MATTER OF a decision made by the Canadian International Trade Tribunal pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*, awarding Wescam Inc. its reasonable costs incurred in relation to filing and proceeding with the complaint.

### **ORDER**

In a determination made on April 19, 1999, the Canadian International Trade Tribunal (the Tribunal) awarded Wescam Inc. (Wescam), pursuant to subsection 30.16(1) of the *Canadian International Trade Tribunal Act*<sup>1</sup>, its reasonable costs incurred in relation to filing and proceeding with the complaint.

On May 18, 1999, Wescam submitted to the Tribunal a claim in the amount of \$20,629.21 in relation to filing and proceeding with its complaint. On June 23, 1999, the Department of Public Works and Government Services (the Department) filed its comments on Wescam's claim. On July 6, 1999, Wescam filed its response to the Department's comments.

### **COMPLAINT COSTS**

Wescam has claimed \$20,410.72 for legal fees incurred in pursuing its complaint and \$218.49 for disbursements related to the legal services rendered. With respect to the hours claimed in relation to "alternative dispute resolution efforts", the Tribunal notes that there is no explanation as to what these costs are and how they would fall within the scope of reasonable costs incurred in relation to filing and proceeding with the complaint. Therefore, these costs are disallowed. The Tribunal is of the view, however, that "post determination issues" such as reviewing the determination and preparing and submitting cost claims and related comments are part of "proceeding with" the complaint and these costs are allowed. As a result, the total number of hours allowed is 105.7.

The Tribunal is not persuaded by Wescam's argument that it should deviate from the hourly rates established in the *Procurement Costs Guidelines*. While the Tribunal did recommend the award of compensation to Wescam, this is separate from the issue of costs incurred in relation to filing and proceeding with the complaint. Pursuant to Appendix B of the *Procurement Costs Guidelines*, the Tribunal has decided to use the following rates for this case: for counsel with less than one complete year of experience, \$60 per hour; for counsel with 6 and 7 completed years of experience, \$100 per hour; and for counsel with 11 and 12 completed years of experience, \$125 per hour. With the elimination of the hours related to "alternative dispute resolution efforts", the legal fees allowed are broken down as follows: 78.3 hours at \$60 per hour,

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1. R.S.C. 1985 (4th Supp.), c. 47.

0.3 hours at \$100 per hour and 27.1 hours at \$125 per hour. Accordingly, the total amount allowed for legal fees is \$8,115.50, plus GST, which equals \$8,683.59.

With respect to the disbursements claimed, the Tribunal finds that the amount of \$218.49 is not unreasonable, even with the reduction of the legal fees, and thus allows the full amount.

### **CONCLUSION**

The Tribunal hereby awards Wescam costs in the amount of \$8,902.08 in relation to proceeding with its complaint and directs that the Department take appropriate action to ensure prompt payment.

Anita Szlazak  
Anita Szlazak  
Presiding Member

Michel P. Granger  
Michel P. Granger  
Secretary