



Ottawa, Thursday, October 12, 2000

**File No.: PR-99-026**

IN THE MATTER OF a complaint filed by Mason•Shaw•Andrew Management Consultants under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND IN THE MATTER OF a decision of the Canadian International Trade Tribunal, pursuant to sections 30.15 and 30.16 of the *Canadian International Trade Tribunal Act*, recommending that Mason•Shaw•Andrew Management Consultants be compensated one half of the profit that it would have made, had it been awarded the contracts for Solicitation Nos. H4097-8-0041 and H4097-9-0011/A at the prices at which these were awarded to The BLAIR Consulting Group, less one dollar and less GST, and awarding Mason•Shaw•Andrew Management Consultants its reasonable costs incurred in relation to filing and proceeding with the complaint.

### ORDER

In a determination made on December 17, 1999, the Canadian International Trade Tribunal (the Tribunal) awarded Mason•Shaw•Andrew Management Consultants (MSA), pursuant to subsection 30.16(1) of the *Canadian International Trade Tribunal Act*, its reasonable costs incurred in relation to filing and proceeding with this complaint. Pursuant to subsections 30.15(2) and (3) of the *Canadian International Trade Tribunal Act*, the Tribunal recommended that MSA be compensated one half of the profit that it would have made, had it been awarded the contracts for Solicitation Nos. H4097-8-0041 and H4097-9-0011/A at the prices at which these were awarded to The BLAIR Consulting Group, less one dollar and less GST.

On July 26, 2000, MSA submitted to the Tribunal its claim for complaint costs in the amount of \$19,474 (including \$1,274 in GST) for filing and proceeding with this complaint. MSA and the Department of Public Works and Government Service (the Department) had previously come to an agreement on a level of compensation of \$11,957, which represented one half of the profit that MSA would have made, had it been awarded the contracts for Solicitation Nos. H4097-8-0041 and H4097-9-0011/A at the prices at which these were awarded to The BLAIR Consulting Group, less one dollar and less GST. On August 23, 2000, the Department sent a letter to the Tribunal stating that the amount for complaint costs was acceptable. On August 30, 2000, MSA invoiced the Department for the compensation settlement of \$11,957, plus \$839 in GST, and for complaint costs of \$18,200, plus \$1,274 in GST.

The application of GST by MSA on the above amounts is disallowed for the following reasons. The complaint costs are the reasonable costs actually expended for filing and proceeding with the complaint and, since MSA has chosen to assign the costs in its claim to its in-house representative, MSA would not have

paid GST in relation to the claim. With respect to the compensation claim, it is not for goods or services delivered and, therefore, is not subject to GST.

## CONCLUSION

The Tribunal hereby awards MSA complaint costs in the amount of \$18,200 and directs that the Department take appropriate action to ensure prompt payment. The Tribunal also establishes the amount of \$11,957 as the recommended compensation to MSA, based on one half of the profit that MSA would have made, had it been awarded the contracts for Solicitation Nos. H4097-8-0041 and H4097-9-0011/A at the prices at which these were awarded to The BLAIR Consulting Group, less one dollar and less GST.

Richard Lafontaine  
Richard Lafontaine  
Presiding Member

Susanne Grimes  
Susanne Grimes  
Acting Secretary