



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

DECISION AND REASONS

File No. PR-2018-038

Weinmann Limited

*Decision made
Friday, November 9, 2018*

*Decision and reasons issued
Wednesday, November 14, 2018*

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

BY

WEINMANN LIMITED

AGAINST

THE ST. LAWRENCE SEAWAY MANAGEMENT CORPORATION

DECISION

Pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal has decided not to conduct an inquiry into the complaint.

Cheryl Beckett

Cheryl Beckett

Presiding Member

STATEMENT OF REASONS

[1] Subsection 30.11(1) of the *Canadian International Trade Tribunal Act*¹ provides that, subject to the *Canadian International Trade Tribunal Procurement Inquiry Regulations*,² a potential supplier may file a complaint with the Canadian International Trade Tribunal (the Tribunal) concerning any aspect of the procurement process that relates to a designated contract and request the Tribunal to conduct an inquiry into the complaint. Subsection 30.13(1) of the *CITT Act* provides that, subject to the *Regulations*, after the Tribunal determines that a complaint complies with subsection 30.11(2) of the *CITT Act*, it shall decide whether to conduct an inquiry into the complaint.

SUMMARY OF COMPLAINT

[2] This complaint by Weinmann Limited (Weinmann) concerns procurements by the St. Lawrence Seaway Management Corporation (SLSMC).

[3] Weinmann filed a complaint with the Tribunal on November 5, 2018, where it contended that the SLSMC failed to guarantee it a fair and impartial pre-qualification process, including by removing it from the list of pre-qualified suppliers, and consequently denied it access to specific procurements.

ANALYSIS

[4] On November 9, 2018, pursuant to subsection 30.13(1) of the *CITT Act*, the Tribunal decided not to conduct an inquiry into the complaint.

[5] Pursuant to sections 6 and 7 of the *Regulations*, the Tribunal may conduct an inquiry if the following conditions are met:

- the complaint has been filed within the time limits prescribed by section 6;³
- the complainant is an actual or potential supplier;⁴
- the complaint is in respect of a designated contract;⁵ and
- the information provided discloses a reasonable indication that the government institution did not conduct the procurement in accordance with the applicable trade agreements.⁶

[6] In this case, the Tribunal has determined that the information provided by Weinmann does not show that the complaint is in respect of a designated government institution or enterprise and, therefore, does not meet the third condition for inquiry.

1. R.S.C., 1985, c. 47 (4th Supp.) [*CITT Act*].
2. S.O.R./93-602 [*Regulations*].
3. Subsection 6(1) of the *Regulations*.
4. Paragraph 7(1)(a) of the *Regulations*.
5. Paragraph 7(1)(b) of the *Regulations*.
6. Paragraph 7(1)(c) of the *Regulations*.

[7] In order for the Tribunal to have jurisdiction to conduct an inquiry, the procurement must be undertaken by an entity listed in the relevant trade agreements to which Canada is a party. The SLSMC is not listed in any such agreements.⁷ Therefore, the Tribunal has no jurisdiction to inquire into the procurements conducted by the SLSMC described in Weinmann's complaint.

DECISION

[8] Therefore, pursuant to subsection 30.13(1) of the *CITT Act*, the Tribunal has decided not to conduct an inquiry into the complaint.

Cheryl Beckett

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Presiding Member

7. Its predecessor, the St. Lawrence Seaway Management Authority, was a listed government enterprise (for a specific commitment regarding the protection of confidential information) in the *North American Free Trade Agreement* and the *World Trade Organization Agreement on Government Procurement* but was removed prior to 2007 as a result of changes to Canada's commitments: D. Attwater, *Procurement Review: A Practitioner's Guide* at 2-12.7; Revised coverage schedule of Canada, online at: https://www.wto.org/english/tratop_e/gproc_e/gp_app_agree_e.htm#revisedGPA.