



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

ORDER AND REASONS

File PR-2022-063

Newland Canada Corporation

v.

Department of National Defence

*Order and reasons issued
Tuesday, April 30, 2024*

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IN THE MATTER OF a complaint filed by Newland Canada Corporation pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*;

AND FURTHER TO the Canadian International Trade Tribunal's preliminary indication of the level of complexity for the complaint case and its preliminary indication of the amount of the cost award.

BETWEEN

NEWLAND CANADA CORPORATION

Complainant

AND

THE DEPARTMENT OF NATIONAL DEFENCE

**Government
Institution**

ORDER

In its determination of June 7, 2023, the Canadian International Trade Tribunal, pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*, awarded the Department of National Defence its reasonable costs incurred in responding to the complaint. The Canadian International Trade Tribunal's preliminary indication of the level of complexity for the complaint case was Level 1, and its preliminary indication of the amount of the cost award was \$750. Having considered the submissions of the parties regarding the preliminary indication of the level of complexity and the preliminary indication of the amount of the cost award, the Canadian International Trade Tribunal confirms its preliminary indications by awarding the Department of National Defence its costs in the amount of \$750 for responding to the complaint. The Tribunal directs Newland Canada Corporation to take appropriate action to ensure prompt payment.

Randolph W. Heggart

Randolph W. Heggart

Presiding Member

STATEMENT OF REASONS

[1] Section 30.16 of the *Canadian International Trade Tribunal Act* allows the Tribunal to award costs to complainants or government institutions following the determination of a complaint. The term “costs”, in the legal sense, refers to an order that one party pay money to another party to compensate it for the expense and time of litigation. Generally, costs are awarded to the party that is successful in the proceeding.

[2] The Tribunal has determined that Newland Canada Corporation’s complaint is not valid, and therefore considers it appropriate to award reasonable costs to the Department of National Defence. In reaching its determination concerning costs, the Tribunal has considered the circumstances of this case (as set out in paragraphs 71–74 of the Statement of Reasons dated July 18, 2023) as well as the representations of the parties relating to determining an appropriate cost award.

[3] In accordance with the *Procurement Costs Guidelines*,¹ the level of complexity for this complaint is Level 1. The procurement was for a discrete service, with the issues relating primarily to the mechanics of the procurement and the decision to award the contract to Park Hotel Brzeg. The Department of National Defence submitted that this procurement complaint was more complex than usual. While the proceedings involved the complainant filing evidence to support its position as it was obtained, which required response, the Tribunal considers that this behaviour was not unreasonable and did not ultimately increase the complexity of the proceedings. The Tribunal finds that the complaint was straightforward.

[4] Therefore, based on the considerations outlined above, the Tribunal exercises its discretion as a court of record to decide to award the Department of National Defence its costs in the amount of \$750. These costs are payable by the complainant.

Randolph W. Heggart

Randolph W. Heggart
Presiding Member

¹ www.citt-tcce.gc.ca/en/procurement-inquiries/procurement-costs-guidelines