



February 9, 2018

Via email: Bill.Morneau@canada.ca

The Honourable William Morneau, P.C., M.P.
Minister of Finance
90 Elgin Street
Ottawa, ON K1A 0G5

Dear Minister:

Re: Appointments to Canadian International Trade Tribunal

We are writing on behalf of the Canadian Bar Association's Administrative Law and Commodity Tax, Customs and Trade Sections to express concern with the precarious state of the Canadian International Trade Tribunal. The Tribunal, normally comprised of six members (although the *Canadian International Trade Tribunal Act* allows a total of seven permanent members and five temporary members), is effectively down to three members.¹

A severely shorthanded Tribunal greatly affects its ability to perform its statutory duties in an efficient and effective manner. For example, the Acting Chair is not able to assign members whose terms have expired (or will expire shortly) to hear matters that will continue beyond their maximum extended time to sit on the Tribunal.

This leaves the Tribunal in a difficult situation at a time when Canadian trade functions should be at full strength to meet Canada's statutory and international responsibilities. A fully staffed Tribunal is also particularly important, given Canada's international trade obligations and the importance of protecting its credibility in light of Canada's (and other WTO members) criticism of the United States' blocking appointments to the WTO Appellate Body.

¹ The terms of members Ann Penner and Daniel Petit have expired. However, they can remain on the Tribunal for a maximum of 120 days after the expiry of their term. The term of member Serge Frechette expires on April 4, 2018.

We urge the government to confirm a permanent Chair of the Tribunal and to fill all vacancies on the Tribunal as quickly as possible.

Yours sincerely,

(original letter signed by Marc-André O'Rourke for Audrey Boctor)

Audrey Boctor
Chair, CBA Administrative Law Section

(original letter signed by Marc-André O'Rourke for Alan Kenigsberg)

Alan Kenigsberg
Chair, CBA Commodity Tax, Customs and Trade Section

cc: The Honourable François-Philippe Champagne, P.C., M.P., Minister of International Trade
Francois-Philippe.Champagne@parl.gc.ca