Date: 20081007

Docket: T-92-07

Citation: 2008 FC 1136

Ottawa, Ontario, October 7, 2008

PRESENT: Mr. Justice Beaudry

BETWEEN:

ABITIBI-CONSOLIDATED INC.
ABITIBI-CONSOLIDATED OF CANADA INC.

Applicants

and

MINISTER OF FOREIGN AFFAIRS
MINISTER OF INTERNATIONAL TRADE
MINISTER OF NATIONAL REVENUE

and

ATTORNEY GENERAL OF CANADA

Respondents

and

ATTORNEY GENERAL OF QUEBEC

Intervener

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application under section 18.1 of the *Federal Courts Act*, R.S., 1985, c. F-7, by Abitibi-Consolidated Inc. and Abitibi-Consolidated of Canada Inc. (the applicants), for judicial

review of the Minister of Foreign Affairs and International Trade's decision of December 14, 2006, setting quotas on Abitibi's softwood lumber exports to the United States for January 2007.

I. Factual background

[2] Abitibi-Consolidated of Canada Inc. is the corporate entity of Abitibi-Consolidated Group Inc., which owns and operates facilities in Canada and exports products.

[3] As for the respondents, the Minister of Foreign Affairs is authorized under section 6.3 of the *Export and Import Permits Act* (the EIPA), R.S., 1985, c. E-19, by order, to establish a method for allocating a quantity of softwood lumber products to persons registered under section 23 of the *Softwood Lumber Products Export Charge Act, 2006* (the 2006 Act), S.C. 2006, c. 13, and to issue an export allocation for a month to persons who apply for one.

[4] The Minister of International Trade is authorized to establish policies applicable to exports of softwood lumber products, and the Minister of National Revenue is responsible for the administration and enforcement of the 2006 Act. In the international trade context, the Minister of International Trade may act on behalf of the Minister of Foreign Affairs.

[5] On September 12, 2006, the Government of Canada and the Government of the United States signed the Softwood Lumber Agreement (the Agreement), which entered into force on October 12, 2006. The basic purpose of the Agreement was to settle a trade dispute over softwood

lumber exports from Canada to the United States and to put in place a stable softwood lumber trading system.

[6] The Agreement terminated litigation brought between 2001 and 2005. The United States was claiming antidumping and countervailing duties that the Canadian forest industry disputed on the basis that they were illegal.

[7] Between 2001 and 2005, Canadian exporters, including Abitibi and their clients, paid several million dollars in deposits pending resolution of the dispute.

[8] The Agreement provides that exporters, such as Abitibi, may either waive 20% of the deposit refunds owed them, or be subject to a tax with the same financial effect.

[9] Under the Agreement, softwood lumber exports from Canada to the United States are subject to border measures. The Government of Canada agreed to limit softwood lumber exports to the United States and to issue allocations on a regional basis according to the monthly regional quota volume (RQV). The RQV is determined by the Minister for each month of the year under subsection 6.2(2) of the EIPA; the allocation is carried out by issuing individual quotas to each exporter in each region concerned.

[10] The method for allocating softwood lumber export quotas is established by the Minister of Foreign Affairs under section 6.3 of the EIPA. Each region of Canada designated in the Agreement

has to choose between two border measures—Option A or Option B—applicable to exports from that region. Quebec is a region under the Agreement.

[11] Under Option A, exports are subject to a variable export charge; the rate varies based on the softwood lumber export price and is determined according to the provisions of the Agreement. Under Option B, exports are subject to a lower export charge on the export price, but they are also subject to quotas based on the region's export history from 2001 to 2005. Quebec, Ontario, Saskatchewan and Manitoba elected Option B.

[12] After discussions among forest industry representatives, the federal government and the Government of Quebec, Quebec proposed the creation of a reserve. The first proposal put forward by the Quebec representatives was to establish a reserve of 25% of companies' export history between April 1, 2001, and December 31, 2005. The federal representatives told the representatives of the Government of Quebec that it was unlikely the Minister would accept that proposal.

[13] The Government of Quebec then changed its position and proposed an allocation method according to which about 6% of the RQV would serve to create a reserve pool for the allocation of quotas to companies with little or no export history for the 2001-2005 period. This new proposal was put to the federal government on September 20, 2006.

[14] This recommendation was for a quota allocation method based mainly on companies' export history between April 1, 2001, and December 31, 2005. According to this method, the RQV would

be divided up based on each individual company's exports between April 1, 2001, and December 31, 2005.

[15] Companies with an export history could elect to participate in the reserve pool instead of having their export allocation based on their export history from 2001 to 2005. In that case, their export history was transferred to the reserve pool available to all reserve pool participants. Companies ineligible for export allocations from the historic pool were eligible for export allocations from the reserve pool.

[16] The creation of a reserve was supported by smaller producers with little or no export history to the United States. Through export allocations from this reserve, they could develop or increase their share of the U.S. market.

[17] In their *Memorandum for Decision* of November 22, 2006, federal officials recommended that the Minister of International Trade adopt the method advocated by the Government of Quebec. The Minister of International Trade endorsed that recommendation on December 7, 2006.

[18] Pursuant to the Minister's decision of December 14, 2006, in Quebec, a company's export allocation is calculated as follows:

1. Quebec's share is based on companies' export history from April 1, 2001, to December 31, 2005.

2. It must first be determined whether companies with exports between 2001 and 2005 prefer to participate in the historic pool or the reserve pool.
3. Then, the shares of companies with exports between 2001 and 2005 are calculated from 94% of total exports permitted (depending on U.S. consumption), which is the percentage reserved for producers with an export history.
4. Producers without an export history are entitled to the remaining 6%, i.e. 100% of exports permitted minus 94% of exports reserved for producers with an export history plus exports of producers electing the reserve pool instead of the historic pool.

[19] The export allocation calculation method for eligible individual companies for the month of January 2007, announced on December 14, 2006, was retroactively codified by the Minister of Foreign Affairs in the *Allocation Method Order – Softwood Lumber Products* (the Order), SOR/2007-166, July 13, 2007, deemed to have come into force on October 12, 2006.

[20] In January 2007, 80.6% of Quebec's RQV was allocated to 28 primary producers like Abitibi, and 8.6% of it went to some 45 companies participating in the reserve pool; the remainder was allocated to 86 remanufacturers. Abitibi-Consolidated alone was allocated an individual quota amounting to 23.2% of the Quebec region's RQV for January 2007.

[21] On January 15, 2007, this application for judicial review was filed by the applicants, seeking to have the decision on the allocation of their export quotas for the month of January 2007 quashed.

[22] On January 27, 2007, the Honourable Madam Justice Heneghan issued an order providing that the final order and reasons of the Court in this application be filed in the following three dockets: T-349-07, T-476-07 and T-669-07 (Abitibi's judicial review applications for the months of February, March and April 2007).

[23] The Court added that if Abitibi were successful in this application, it would be given 30 days from the filing of the order to file additional applications for judicial review of other decisions by the respondents after the month of April 2007.

[24] On December 16, 2007, the Minister of Foreign Affairs published the *Allocation Method Order (2008) — Softwood Lumber Products* (the 2008 Order). As its title indicates, the 2008 Order prescribes the quota allocation method for softwood lumber exports to the United States for the year 2008.

II. Issues

[25] In the Court's view, the issues are:

1. What is the appropriate standard of review in the case at bar?
2. Did the Minister abdicate his discretion under the EIPA or act at the dictate of a third party in establishing the quota allocation method for the Quebec region for the year 2007?
3. Is the decision of December 14, 2006, reasonable?

III. Relevant legislation

[26] Subsection 6.2(2) and section 6.3 of the *Export and Import Permits Act* (the EIPA), R.S., 1985, c. E-19:

6.2 (1) Where any goods have been included on the Import Control List for the purpose of implementing an intergovernmental arrangement or commitment, the Minister may determine import access quantities, or the basis for calculating them, for the purposes of subsection (2) and section 8.3 of this Act and for the purposes of the *Customs Tariff*.	**6.2** (1) En cas d'inscription de marchandises sur la liste des marchandises d'importation contrôlée aux fins de la mise en oeuvre d'un accord ou d'un engagement intergouvernemental, le ministre peut, pour l'application du paragraphe (2), de l'article 8.3 et du *Tarif des douanes*, déterminer la quantité de marchandises visée par le régime d'accès en cause, ou établir des critères à cet effet.
(2) Where the Minister has determined a quantity of goods under subsection (1), the Minister may	(2) Lorsqu'il a déterminé la quantité des marchandises en application du paragraphe (1), le ministre peut :
(*a*) by order, establish a method for allocating the quantity to residents of Canada who apply for an allocation; and	*a*) établir, par arrêté, une méthode pour allouer des quotas aux résidents du Canada qui en font la demande;
(*b*) issue an allocation to any resident of Canada who applies for the allocation, subject to the regulations and any terms and conditions the Minister may specify in the allocation.	*b*) délivrer une autorisation d'importation à tout résident du Canada qui en fait la demande, sous réserve des conditions qui y sont énoncées et des règlements.
(3) The Minister may consent to the transfer of an import allocation from one resident of Canada to another.	(3) Le ministre peut autoriser le transfert à un autre résident de l'autorisation d'importation.

6.3 (1) The following definitions apply in this section and section 6.4.

6.3 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 6.4.

"BC Coast" « *côte de la Colombie-Britannique* » means the Coast forest region established by the *Forest Regions and Districts Regulation* of British Columbia, as it existed on July 1, 2006.

« côte de la Colombie-Britannique » "*BC Coast*" S'entend de la « Coast forest region » au sens du règlement de la Colombie-Britannique intitulé *Forest Regions and Districts Regulation*, dans sa version au 1er juillet 2006.

"BC Interior" « *intérieur de la Colombie-Britannique* » means the Northern Interior forest region and the Southern Interior forest region established by the *Forest Regions and Districts Regulation* of British Columbia, as they existed on July 1, 2006.

« intérieur de la Colombie-Britannique » "*BC Interior*" S'entend des « Northern Interior forest region » et « Southern Interior forest region » au sens du règlement de la Colombie-Britannique intitulé *Forest Regions and Districts Regulation*, dans sa version au 1er juillet 2006.

"region" « *région* » means Ontario, Quebec, Manitoba, Saskatchewan, Alberta, the BC Coast or the BC Interior.

« région » "*region*" L'Ontario, le Quebec, le Manitoba, la Saskatchewan, l'Alberta, la côte de la Colombie-Britannique ou l'intérieur de la Colombie-Britannique.

(2) If any softwood lumber products have been included on the Export Control List for the purpose of implementing the softwood lumber agreement, the Minister may determine the quantity of those products that may be exported from a region during a month, or the basis for calculating such quantities, for the purposes of subsection (3) and section 8.4.

(2) En cas d'inscription de produits de bois d'oeuvre sur la liste des marchandises d'exportation contrôlée aux fins de mise en oeuvre de l'accord sur le bois d'oeuvre, le ministre peut, pour l'application du paragraphe (3) et de l'article 8.4, déterminer la quantité de produits de bois d'oeuvre pouvant être exportée d'une région pour un mois ou établir

	des critères à cet effet.
(3) If the Minister has determined a quantity of products under subsection (2), the Minister may	(3) Lorsqu'il a déterminé la quantité de produits de bois d'oeuvre en application du paragraphe (2), le ministre peut :
(*a*) by order, establish a method for allocating the quantity to persons registered under section 23 of the *Softwood Lumber Products Export Charge Act, 2006* who apply for an allocation; and	*a*) établir, par arrêté, une méthode pour allouer des quotas à toute personne inscrite en vertu de l'article 23 de la *Loi de 2006 sur les droits d'exportation de produits de bois d'oeuvre* qui en fait la demande;
(*b*) issue an export allocation for a month to any of those persons subject to the regulations and any terms and conditions that the Minister may specify in the export allocation.	*b*) délivrer une autorisation d'exportation pour un mois à toute personne ainsi inscrite qui en fait la demande, sous réserve des conditions qui y sont énoncées et des règlements.
(4) The Minister may consent to the transfer of an export allocation from one registered person to another registered person.	(4) Le ministre peut autoriser le transfert de l'autorisation d'exportation à toute autre personne ainsi inscrite.

[27] Section 23 of the *Softwood Lumber Products Export Charge Act, 2006* (the 2006 Act), S.C. 2006, c. 13:

23. The Minister may register any person applying for registration and, if the Minister does so, shall notify the person of the effective date of the registration.	**23.** Le ministre peut inscrire toute personne qui lui présente une demande. Le cas échéant, il l'avise de la date de prise d'effet de l'inscription.

IV. Analysis

A. *What is the appropriate standard of review in the case at bar?*

[28] Recently, in *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, the Supreme Court held that there are now two standards of review: correctness and reasonableness.

[29] Reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir* at paragraph 47). The Supreme Court added at paragraphs 51 and 53:

> **51.** Having dealt with the nature of the standards of review, we now turn our attention to the method for selecting the appropriate standard in individual cases. As we will now demonstrate, questions of fact, discretion and policy as well as questions where the legal issues cannot be easily separated from the factual issues generally attract a standard of reasonableness…
>
> **53.** Where the question is one of fact, discretion or policy, deference will usually apply automatically…

[30] The parties agree that the reasonableness standard applies in the case at bar, and given the high degree of deference that must be shown to the Minister's discretionary decision, the Court will bear this standard in mind.

[31] The respondents submit that the application for judicial review should be dismissed, given that the Order of July 13, 2007, was not challenged by the applicants. The respondents argue that because of the retroactive effect of the Order, the quota allocation method for the year 2007 must be

considered to be determined by the Order, not by the Minister's decision of December 14, 2006, so the individual quota for the month of January 2007 and those for all subsequent months in the year 2007 were established under the Order.

[32] The respondents state that the decision at issue is a decision of a legislative nature, i.e. a regulation (the Order), not an isolated decision involving the exercise of discretion in a particular case. The allocation of individual quotas is simply the result of the application of the Order to each individual company. The respondents cite *Canadian Assn. of Regulated Importers v. Canada (Attorney General)*, [1994] 2 F.C. 247 (C.A.) at page 255.

[33] In *Carpenter Fishing Corp. v. Canada*, [1998] 2 F.C. 548 at paragraph 28, the Federal Court of Appeal held that the allocation of quotas pursuant to a policy is a discretionary decision in the nature of policy or legislative action. At pages 7 and 8 of *Maple Lodge Farms Ltd. v. Canada*, [1982] 2 S.C.R. 2, the Supreme Court of Canada said **this**:

> …It is, as well, a clearly-established rule that the courts should not interfere with the exercise of a discretion by a statutory authority merely because the court might have exercised the discretion in a different manner had it been charged with that responsibility. Where the statutory discretion has been exercised in good faith and, where required, in accordance with the principles of natural justice, and where reliance has not been placed upon considerations irrelevant or extraneous to the statutory purpose, the courts should not interfere.…

[34] In the case at bar, the three exceptions set out in *Maple Lodge Farms Ltd.* (good faith, natural justice, considerations irrelevant or extraneous to the statutory purpose) were not argued, and in the Court's view, they are not present.

[35] The applicants did not challenge the Order because it was not practical to do so, according to them. The respondents submit that by retroactive operation of the Order, authorized by law (section 108 of the *Softwood Lumber Products Export Charge Act, 2006*), the decision of December 14, 2006, followed the method established by the Order. That decision, which was inherently political before the making of the Order, no longer exists; it has become a decision resulting from the Order. Furthermore, another company already brought proceedings to quash the Order (T-1492-07). Since the applicants have not challenged the Order, the Court should dismiss this application forthwith.

[36] It is unnecessary to consider this argument, as the application for judicial review is dismissed for the reasons below.

B. *Did the Minister abdicate his discretion under the EIPA or act at the dictate of a third party in establishing the quota allocation method for the Quebec region for the year 2007?*

[37] The applicants submit that the Minister allowed the exercise of his discretion to be fettered by the Government of Quebec, thereby transforming the Agreement, the purpose of which was to settle a pre-existing trade dispute, into economic policy action dictated by the Government of Quebec and intended to favour companies with no export history.

[38] They argue that without any analysis or alteration, the Minister endorsed Quebec's position on the establishment of a 6% reserve. They cite, *inter alia*, *K.F. Evans Ltd. v. Canada (Minister of*

Foreign Affairs), [1997] 1 F.C. 405; *Baluyut v. Canada (Minister of Employment and Immigration)*, [1992] 3 F.C. 420 (T.D.); *Muliadi v. Canada (Minister of Employment and Immigration)*, [1986] 2 F.C. 205 (C.A.); *Canadian Assn. of Regulated Importers v. Canada*, *supra*; and *Canadian Assn. of Regulated Importers v. Canada (Attorney General)*, [1993] 3 F.C. 199 (T.D.) to the effect that in the exercise of one's discretion, simply deferring to the opinion of other representatives does not constitute an exercise of the Minister's discretion under the EIPA.

[39] The respondents argue that when a discretionary power is conferred on a public officer, that officer must exercise it personally, or, in the case of a minister, through officials in the department (*R. v. Harrison*, [1977] 1 S.C.R. 238, and *Carltona Ltd. v. Commissioners of Works*, [1943] 2 All E.R. 560). The holder of a power cannot simply allow a third party to dictate how that discretionary power should be exercised. However, if an officer exercising a decision-making power consults a lower authority or anyone else before making a decision, that does not constitute an illegal subdelegation of that power. The applicants must therefore show that the Minister did not exercise his discretion personally, but allowed a third party to dictate his decision, as was decided in *Muliadi v. Canada (Minister of Employment and Immigration)* and *K.F. Evans, supra*.

[40] The respondents submit that all interested parties were consulted: the provincial governments and the forest industry, including the applicants. That was obviously for the purpose of getting their recommendations on which method to apply in each region. In those discussions, federal officials expressed reservations about Quebec's initial proposal for a reserve pool of 25% of allocations, pointing out that it was unlikely that approach would be accepted by the Minister.

[41] Based on the federal officials' recommendations detailed in the *Memorandum for Decision* (the Memorandum) dated November 22, 2006 (pages 322 to 334, respondents' record), the Minister decided to adopt the method formally recommended by Quebec: a reserve pool of 6%. However, mention was made of problems that could result from the creation of a reserve pool, and alternatives to the suggested method were also proposed.

[42] The respondents submit that the Minister did not abdicate his role in the making of the decision of December 14, 2006. They rely mainly on the Memorandum. They submit that the federal officials analyzed the proposals from Quebec and the forest industry for the Minister. The same officials considered the proposals made and conveyed their opinion to the Minister by giving him their comments on the relative advisability of accepting each of the proposals put forward.

[43] Not all of Quebec's proposals were accepted outright by the Minister, say the respondents. Some were altered, others were discarded, some were commented on and alternatives were suggested. For example, they refer the Court to paragraphs 5, 6, 12, 15, 16, 17, 18, 32 and 40 of the Memorandum.

[44] After carefully analyzing the Memorandum, the Court has reached the conclusion that the federal officials' recommendations to the Minister were the product of serious considerations; real issues were raised, analyzed and discussed. When the Minister made his decision, he did not throw in the towel, nor did he rely solely and blindly on Quebec's proposals.

[45] Paragraph 42 of the Memorandum can surely be considered strategic, because the federal officials recommended that the Minister direct companies dissatisfied with their quotas to take it up with Quebec. This paragraph cannot be isolated from the preceding 41 paragraphs and cannot in itself support the applicants' contention that the Minister abdicated his discretion.

[46] The intervener notes that in the Canadian federal system, it is well established that the management of natural resources is a matter of provincial jurisdiction, under section 92A of the *Constitution Act, 1867*, 30 & 31 Victoria, c. 3. (U.K.). Furthermore, the *Forest Act*, R.S.Q., c. F-4.1, governs the management of the forestry regime in Quebec, whereas the Parliament of Canada has jurisdiction over customs measures governing Canadian softwood lumber exports under section 91 of the *Constitution Act, 1867*. According to the intervener, the fact that the respondents considered the Government of Quebec's recommendations on the appropriate quota allocation method for the Quebec forest industry could not be construed as an abdication of power or a decision made at the dictate of a third party because the provincial jurisdiction over natural resource management is involved.

[47] The Minister's decision to adopt the Government of Quebec's proposed quota allocation method for all Quebec producers is not a decision made at the dictate of a third party, nor an abdication of his discretionary power; since most of the wood harvested in Canada is cut on land that belongs to the provinces, the provinces are well placed to convey information to the Minister about the state of the forest industry in their territory.

[48] The Court agrees with the respondents that in the case at bar, the Minister was free to consult the provinces for their suggestions on the quota allocation method. According to the evidence in the record, the Minister made comments on the Memorandum of November 22, 2006 (see page 324 of the respondents' record) before signing and accepting the allocation method on December 7, 2006; this shows the Minister made his decision after his own analysis of his officials' recommendations.

C. *Is the Minister's decision reasonable?*

[49] According to the applicants, the Minister's decision is unreasonable because it created a reserve pool of 6% without any study, analysis or adequate explanation of the reasons for that reserve. They add that they are already penalized by the historic allocation, and then a further 6% is taken from them and allocated to companies with no export history to the United States.

[50] According to the respondents, the Minister had the discretion to establish a reserve pool, and contrary to what Abitibi is suggesting, the Agreement neither prescribed the individual quota allocation method nor made any guarantee that only companies with an export history between 2001 and 2005 would get export quotas. In fact, the way to divide export allocations among eligible companies in regions electing Option B is left entirely up to the Minister's discretion.

[51] The respondents point out that an international agreement creates rights for signatory governments, not private parties. The respondents cite a number of cases standing for the proposition that the Agreement has to be enshrined in domestic law through implementing legislation, which may then confer rights on private parties (*Francis v. Canada*, [1956] S.C.R. 618, and *Capital Cities Communications Inc. v. Canada (Canadian Radio-Television Commission)*, [1978] 2 S.C.R. 141).

[52] In the case at bar, the EIPA is the legislation that implements the Agreement and provides for the quota allocation method. According to the respondents, under the EIPA, the Minister had no statutory obligation to establish a method based on export history, nor to create a reserve pool, but he had full discretion to do so.

[53] The respondents submit that the Government of Quebec's proposed quota allocation method takes into account the position of companies like Abitibi, as export history between 2001 and 2005 was at the root of the method. However, the Minister was aware that a number of smaller companies without exports between 2001 and 2005 had expressed an interest in starting to export softwood lumber to the United States. According to the respondents, it is not for the Court to pass judgment on the Minister's decision to establish a particular allocation method, i.e. the reserve pool in Quebec. It is not for the courts to question the advisability of a regulation made by the executive branch of government; that task is for Parliament (*Assoc. des Gens de l'Air du Quebec Inc. v. Lang*, [1977] 2 F.C. 22 (T.D.)).

[54] Unfortunately for the applicants, even if they suffer economic losses as a result of the Minister's decision, the Court cannot intervene in this case. The decision made known to the applicants on December 14, 2006, is a political decision under the Minister's authority and beyond judicial review, subject to the three exceptions mentioned above (good faith, natural justice, considerations irrelevant or extraneous to the statutory purpose, paragraph 34 of this decision) in *Maple Lodge Farms Ltd, supra* (see *Canadian Assn. of Regulated Importers v. Canada (Attorney General), supra*).

[55] In asking the Minister to create a reserve pool of 6%, Quebec wanted to make some room for smaller exporters. The Minister could accept that recommendation or could have accepted the one advocated by the applicants. He had the discretion to create a reserve pool and to stipulate the method. The Minister exercised his discretion properly, and it is not for the Court to vary that decision.

[56] In accordance with Madam Justice Heneghan's decision of January 27, 2007, a copy of this decision will be filed in dockets T-349-07, T-476-07 and T669-07.

JUDGMENT

THE COURT ORDERS that:

1. The application for judicial review be dismissed. A lump sum of $2,500 for costs, excluding disbursements and taxes, must be paid by the applicants to the respondents.

2. A copy of this decision be filed in dockets T-349-07, T-476-07 and T669-07.

"Michel Beaudry"
Judge

Certified true translation

Peter Douglas

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	**T-92-07**
STYLE OF CAUSE:	**ABITIBI-CONSOLIDATED INC.** **ABITIBI-CONSOLIDATED OF CANADA INC.** **and** **MINISTER OF FOREIGN AFFAIRS** **MINISTER OF INTERNATIONAL TRADE** **MINISTER OF NATIONAL REVENUE and** **ATTORNEY GENERAL OF CANADA and** **ATTORNEY GENERAL OF QUEBEC**
PLACE OF HEARING:	Montréal, Quebec
DATE OF HEARING:	September 30, 2008
REASONS FOR JUDGMENT AND JUDGMENT:	Beaudry J.
DATE OF REASONS:	October 7, 2008

APPEARANCES:

Simon V. Potter	FOR THE APPLICANTS
Bernard Letarte	FOR THE RESPONDENTS
Benoît Belleau	FOR THE INTERVENER

SOLICITORS OF RECORD:

McCarthy Tétrault LLP Montréal, Quebec	FOR THE APPLICANTS
John H. Sims, Q.C. Deputy Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENTS
Bernard, Roy Montréal, Quebec	FOR THE INTERVENER