

**Date: 20071221**

**Docket: A-455-07**

**Citation: 2007 FCA 411**

[ENGLISH TRANSLATION]

**Present: Trudel J.A.**

**BETWEEN:**

**BUREAU D'ÉTUDES STRATÉGIQUES ET TECHNIQUES  
EN ÉCONOMIQUE (BESTE)**

**Applicant**

**and**

**THE CANADIAN INTERNATIONAL DEVELOPMENT AGENCY**

**Respondent**

Written motion decided without appearance of the parties

Order delivered at Ottawa, Ontario, on December 21, 2007.

**REASONS FOR ORDER:**

**TRUDEL J.A.**

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**REASONS FOR ORDER**

**TRUDEL J.A.**

[1] Three motions are submitted for an arbitration decision as part of an application for judicial review against the Canadian International Development Agency (CIDA) commenced by the applicant (see an order dated November 28, 2007, which substituted the CIDA for the Attorney General of Canada).

**The respondent's motion to strike**

[2] The respondent is asking for paragraphs 18 to 144 of the applicant's affidavit to be struck on the grounds that they represent the applicant's legal argument. The applicant acknowledges this fact and offers to replace paragraphs 18 to 144 of its affidavit with the following two factual statements:

[TRANSLATION]

18. On September 5, 2007, the Canadian International Trade Tribunal (CITT) filed its decision and reasons;
19. On October 5, 2007, BESTE filed an application for judicial review and served the stakeholders.

The applicant's consent, given by its owner and operator, does not bring the motion to an end because some exhibits were filed to support the contested paragraphs.

[3] More specifically, the respondent is asking to have exhibits 4, 5, 7, 8, 9 and 10 withdrawn. Inter alia, it claims that exhibits 4, 7, and 8 were not a part of the record before the Tribunal during the review of the complaints that gave rise to this case.

(a) Exhibits P-4, P-7 and P-8

[4] Exhibit P-4 summarily defines set theory. Statements in the affidavit that refer to this exhibit favour its exclusion. It supports one of the applicant's arguments.

[5] Exhibits P-7 and P-8 were not before the Tribunal. They are excluded from the record.

(b) Exhibit P-5

[6] Exhibit P-5 is an order by the CITT on May 29, 2007, between the same parties. Exhibit P-2, to which the applicant refers at paragraph 14 of its affidavit, is its complaint record filed with the CITT numbered PR-2007-10. It is suspected that the decision under Exhibit P-5 is included therein. If not, the applicant is authorized to include it in the exhibit. As a result, exhibit P-5 will henceforth be a part of P-2.

(c) Exhibits P-9 and P-10

[7] Exhibits P-9 and P-10 are not struck from the record. They are announced at points 4 and 6 of the application notice. Their relevance will be evaluated on merit.

[8] The applicant will be authorized to file a new affidavit that is purged of the references to the struck exhibits and that complies with the order attached to these reasons.

**The respondent's motion for a confidentiality order**

[9] The respondent's motion will be allowed because the Court is satisfied that it is necessary to maintain the confidentiality of these documents filed with the CITT, notwithstanding the public's interest in open and accessible court proceedings.

**The applicant's motion to vary**

[10] An earlier motion by the applicant through which it requested permission to represent itself was dismissed by an order issued on November 28, 2007. Following this order, a motion proposing to change the style of cause was submitted. Mr. Jean-Marc Bergevin would henceforth be the applicant in this case. He would thereby be able to represent himself because he claims he does not have the financial resources to retain the services of counsel for the current applicant, of which—I would like to reiterate—he is the owner and operator.

[11] In the Tribunal Record, it is noted that Mr. Bergevin was the complainant, whereas the impugned decision designates the present applicant as the complainant.

[12] The Bureau d'études stratégiques et techniques en économique is a proprietorship exclusively operated by Mr. Bergevin. It does not have any employees. The respondent does not object to the application.

[13] The motion will be granted without costs.

“Johanne Trudel”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-455-07

**STYLE OF CAUSE:** BUREAU D'ÉTUDES STRATÉGIQUES ET  
TECHNIQUES EN ÉCONOMIQUE (BESTE)  
v. THE CANADIAN INTERNATIONAL  
DEVELOPMENT AGENCY

**WRITTEN MOTION DECIDED WITHOUT APPEARANCE OF THE PARTIES**

**REASONS FOR ORDER:** TRUDEL J.A.

**DATED:** December 21, 2007

**WRITTEN REPRESENTATIONS:**

Jean-Marc Bergevin

FOR THE APPLICANT

Bernard Letarte

FOR THE RESPONDENT

Andréane Joanne-Laflamme

**SOLICITORS OF RECORD:**

Sainte-Foy, Quebec

FOR THE APPLICANT

John H. Sims, Q.C.

FOR THE RESPONDENT

Deputy Attorney General of Canada