

# **Canada Industrial Relations Board**

**2010–11**

**Departmental Performance Report**

The original version was signed by

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The Honourable Lisa Raitt  
Minister of Labour



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## Message from the Chairperson

I am pleased to present to Parliament and to Canadians the annual Performance Report of the Canada Industrial Relations Board (the CIRB or the Board) for the period ending March 31, 2011.



The Canada Industrial Relations Board has a mandate to support constructive labour-management relations in the sectors regulated by the *Canada Labour Code (Part I–Industrial Relations)*. In order to achieve this objective, the Board provides a variety of dispute resolution services. It adjudicates matters where necessary, but it also focuses on providing mediation assistance at all stages of a case, in order to proactively seek a resolution of matters that best meets the needs of the parties. We are encouraged by the positive results that have been achieved through this approach and intend to continue our efforts to support labour and management in improving their workplace relationships.

At the conclusion of this last fiscal year (April 2010–March 2011), the number of incoming matters remained stable, but the Board, again this year, disposed of more cases than it received. This has had a positive impact on reducing the number of pending matters. In addition, less than 12% of these matters have been pending for more than two years, which is a significant improvement over previous years.

During the year, we also initiated a substantive review of the *Canada Industrial Relations Board Regulations, 2001* (the *Regulations*) in order to make them more clear, modern and practical. The Board has conducted an internal review of the *Regulations* and is currently consulting with the labour law and labour relations community about which processes work well and which could be improved upon.

We have made significant progress towards establishing an effective dispute resolution agency that is able to meet the needs and expectations of the labour relations community. With the continued involvement of our clients, and dedication of the Board’s Vice-Chairpersons, Members and staff, I am confident that the CIRB will continue to successfully meet the challenges ahead.

The original version was signed by

Elizabeth MacPherson  
Chairperson



## Section I: Organizational Overview

### Raison d'être

The mandate of the Canada Industrial Relations Board (the CIRB or the Board) is to contribute to and promote a harmonious industrial relations climate in the federally regulated private sector through the impartial, effective and appropriate administration of the legislation governing labour and management in their representational and bargaining activities. To achieve this mandate, the Board seeks to provide effective industrial relations solutions for the Canadian labour relations community in a fair and timely manner.

### Responsibilities

The CIRB is an independent, representational, quasi-judicial tribunal responsible for the interpretation and application of Part I (Industrial Relations) and certain provisions of Part II (Occupational Health and Safety) of the *Canada Labour Code* (the *Code*). The Board was established in January 1999, to replace the previous Canada Labour Relations Board, through amendments to Part I of the *Code*.

Part I of the *Code* establishes the framework for collective bargaining, the acquisition and termination of bargaining rights, unfair labour practices and protection of the public interest in the event of work stoppages affecting essential services.

The CIRB has jurisdiction in all provinces and territories with respect to federal works, undertakings or businesses in the following sectors:

- Broadcasting
- Chartered banks
- Postal services
- Airports and air transportation
- Shipping and navigation
- Interprovincial or international transportation by road, railway, ferry or pipeline
- Telecommunications
- Grain handling and uranium mining and processing
- Most public and private sector activities in the Yukon, Nunavut and the Northwest Territories
- Some First Nations undertakings
- Federal Crown corporations (including, among others, Atomic Energy of Canada Limited and the national museums)

The federal jurisdiction covers some 800,000 employees and their employers, and includes enterprises that have a significant economic, social, and cultural impact on Canadians from coast to coast. The variety of activities conducted in the federally regulated private sector, as well as its geographical scope and national significance, contribute to the uniqueness of the federal jurisdiction and the role of the CIRB.

The Board's role is to exercise its powers in accordance with the Preamble and provisions of the *Code*, which state that Parliament considers "the development of good industrial relations to be in the best interests of Canada in ensuring a just share of the fruits of progress to all." To that end, the Board aims to be responsive to the needs of the industrial relations community across Canada.

## Departmental Organization

The *Code* provides that the Board is to be composed of the Chairperson, two or more full-time Vice-Chairpersons, not more than six full-time Members (of which not more than three represent employers and not more than three represent employees) and any other part-time Members (representing, in equal numbers, employees and employers) necessary to discharge the responsibilities of the Board. All are appointed by the Governor in Council: the Chairperson and the Vice-Chairpersons for terms not to exceed five years, the Members for terms not to exceed three years. The Board currently consists of the Chairperson, five full-time and two part-time Vice-Chairpersons, and five full-time and two part-time Members. There currently is a vacancy for a full-time employer-side Member and one Vice-Chairperson's term will expire at the end of September 2011. Information on the Board members can be found at: [http://www.cirb-ccri.gc.ca/about-apropos/members-membres/index\\_eng.asp](http://www.cirb-ccri.gc.ca/about-apropos/members-membres/index_eng.asp).

The Chairperson is the chief executive officer of the Board and has supervision over, and direction of, the work of the Board, including:

- the assignment and reassignment of matters that the Board is seized of to panels;
- the composition of panels and the assignment of Vice-Chairpersons to preside over panels;
- the determination of the date, time and place of hearing;
- the conduct of the Board's work;
- the management of the Board's internal affairs;
- the duties of the staff of the Board.

The Board's headquarters are located in the National Capital Region. Support to the Board is provided by the Executive Director, reporting directly to the Chairperson. The Executive Director is responsible for regional operations, case management, client and corporate services and financial services. The Legal Services Branch provides legal assistance as required by the Board and is headed by a general counsel who reports directly to the Chairperson of the Board.

The Board has four regional offices located in Dartmouth, Montréal, Toronto and Vancouver, with two satellite offices, one in Ottawa and another in Winnipeg. These offices are staffed by labour relations professionals and case management teams. Each regional office is headed by a regional director, who reports to the Executive Director in Ottawa.



## Strategic Outcome and Program Activity Architecture (PAA)

### Strategic Outcome

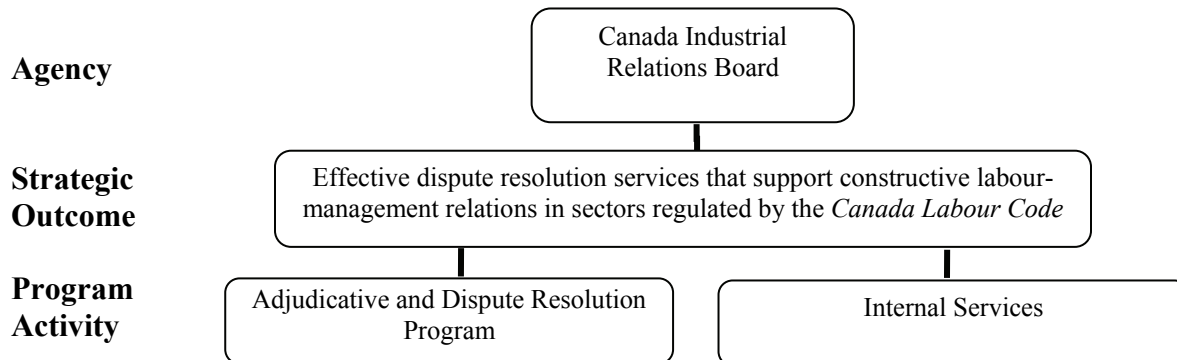
In pursuing its mandate, the CIRB seeks to achieve the following strategic outcome:

**Effective dispute resolution services that support constructive labour-management relations in sectors regulated by the *Canada Labour Code***

The CIRB’s current strategic outcome is aligned with the government’s Economic Affairs and supports the government’s desired outcome of ensuring a Fair and Secure Marketplace through the impartial, effective and appropriate administration of the rules governing the conduct of employers and unions, in order to ensure stable labour-management relations and productive workplaces.

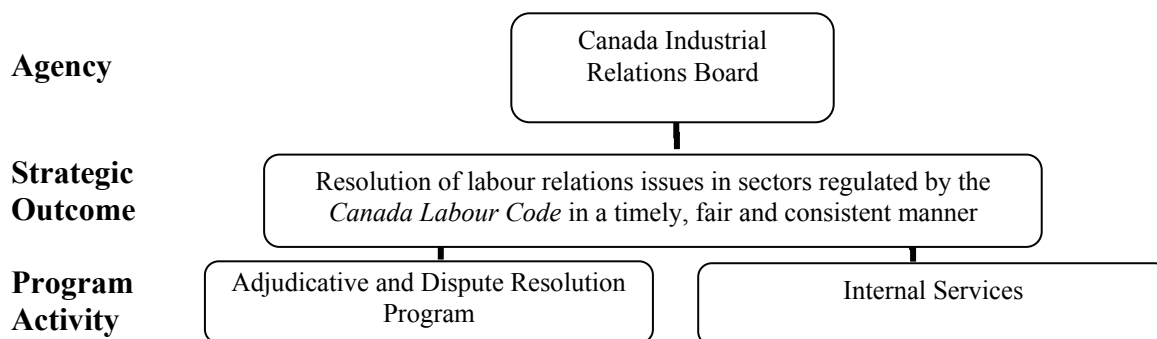
### Program Activity Architecture

Based on its legislated mandate, the CIRB has a single strategic outcome and two program activities.



### Program Activity Architecture Crosswalk

The PAA shown above differs from the PAA provided in the Board’s 2010–11 Report on Plans and Priorities against which the current performance report is based. Specifically, the CIRB, in consultation with the Treasury Board Secretariat (TBS), reformulated its strategic outcome in 2011 to better describe the benefit that the CIRB ultimately provides to Canadians. The change has no financial impact, nor does it change the Board’s program activities. The previous PAA is shown below for comparison.



## Organizational Priorities

In addition to its objective of promoting and contributing to effective and stable industrial relations in the federally regulated private sector, the CIRB aims to be progressive, efficient and effective in the delivery of its mandate. During the reporting period, the Board continued its efforts to reduce processing time of new cases and to provide effective case management and dispute resolution mechanisms that best meet the needs of the clients. This is demonstrated in the table below:

| Priority   | Type <sup>1</sup> | Strategic Outcome(s) and/or Program Activity(ies)  |
|--|-------------------|--|
| Expeditious and fair processing of applications and complaints   | Ongoing           | <p>This priority is linked to our sole strategic outcome:</p> <p>Effective dispute resolution services that support constructive labour-management relations in sectors regulated by the <i>Canada Labour Code</i></p> <p>and directly linked to our main program activity:</p> <p>Adjudicative and Dispute Resolution Program</p> |
| <b>Status: Exceeded</b>  |                   |  |
| <ul style="list-style-type: none"> <li>The Board disposed of more cases than it received during the reporting period. The number of applications/complaints resolved as a percentage of applications/complaints received represents 100.3%.</li> <li>The Board significantly reduced its average processing time by 17% from the previous year.</li> <li>The Board initiated a comprehensive review of its regulatory framework in order to find further efficiencies in the handling of applications filed with the Board and respond to client needs.</li> </ul> |                   |  |

1. “Type” is categorized as follows: **Previously committed to**—committed to in the first or second fiscal year before the subject year of the report; **Ongoing**—committed to at least three fiscal years before the subject year of the report; and **New**—newly committed to in the reporting year of the Departmental Performance Report.

| Priority  | Type    | Strategic Outcome(s) and/or Program Activity(ies)   |
|---|---------|---|
| Successful resolution of labour relations problems through appropriate dispute resolution mechanisms  | Ongoing | This priority is linked to our sole strategic outcome:<br>Effective dispute resolution services that support constructive labour-management relations in sectors regulated by the <i>Canada Labour Code</i><br><br>and directly linked to our main program activity:<br>Adjudicative and Dispute Resolution Program |
| <b>Status: Met all</b>  |         |   |
| <ul style="list-style-type: none"> <li>The Board took on average 64 days to render written decisions; this is a significant improvement over the previous year where, on average, the Board took 94 days to issue decisions.</li> <li>Forty-eight percent of unfair labour practice complaints filed with the Board were either settled or withdrawn without the need for adjudication, just slightly below the set target of 50%.</li> </ul> |         |   |

| Priority  | Type    | Strategic Outcome(s) and/or Program Activity(ies)   |
|---|---------|---|
| An involved and well-informed labour relations community  | Ongoing | This priority is linked to our sole strategic outcome:<br>Effective dispute resolution services that support constructive labour-management relations in sectors regulated by the <i>Canada Labour Code</i><br><br>and directly linked to our main program activity:<br>Adjudicative and Dispute Resolution Program |
| <b>Status: Exceeded</b>   |         |   |
| <ul style="list-style-type: none"> <li>The Board initiated a series of consultation sessions with the labour relations community to obtain the views and comments from the clients with respect to the regulatory review. It also continues to meet regularly with the Client Consultation Committee to discuss CIRB initiatives and receive feedback from the community on the Board's performance.</li> <li>The Board prepared and disseminated two issues of its Newsletter to the client community. This is a new outreach initiative launched in 2010 that provides the labour relations community with up-to-date information on the Board's activities and performance.</li> </ul> |         |   |

- Information and statistics on the Board’s performance are published on the Board’s Website and updated regularly.

| Priority  | Type    | Strategic Outcome(s) and/or Program Activity(ies)  |
|---|---------|--|
| Operational effectiveness and compliance with government-wide Accountability Framework  | Ongoing | <p>This priority is linked to our sole strategic outcome:</p> <p>Effective dispute resolution services that support constructive labour-management relations in sectors regulated by the <i>Canada Labour Code</i></p> <p>and linked to the following program activity:</p> <p>Internal Services</p> |
| <b>Status: Met all</b>  |         |  |
| <ul style="list-style-type: none"> <li>• During the year, the Board piloted and implemented e-fax capability, allowing it to receive and transmit documents in an electronic format.</li> <li>• The Board also implemented electronic votes as one of the mechanisms by which it will conduct representation votes. This has allowed the Board to conduct votes in cases where bargaining unit members are geographically dispersed more quickly and efficiently than by the traditional mail or in-person votes.</li> <li>• With regard to human resources management, the CIRB implemented career development positions in order to attract and retain staff in positions where there is high turnover.</li> <li>• Risks profile and mitigation strategies have been identified through a strategic session and are being documented in the Board’s strategic business plan.</li> </ul> |         |  |

## Risk Analysis

The CIRB is a low risk agency. Financially, approximately four fifths (81%) of its \$13 million operating budget is for salaries and benefits. Of the remaining \$2.6 million in Operations and Maintenance (O&M), 55% is for travel and professional services, and is largely related to the processing of cases such as travel to external hearings, temporary rental of hearing rooms, interpretation services and translation of Board decisions. The Board adheres to Treasury Board policies for the expenditure of its O&M budget and an audit conducted by the Office of the Comptroller General in the Spring of 2011 has confirmed that the Board’s core controls over financial management are effective and generally executed in compliance with TBS policies and directives.

## Operating environment

The Board has an ongoing planning challenge in that the CIRB’s sole function is to respond to the matters referred to it by unions, employers, employees and the Minister of Labour. As such,

the CIRB's operational activities are driven by external demands that it can only react to rather than plan for.

The Board's workload is a function of many variables, but the economic environment is a key determinant of the types of cases submitted to the Board. For example, corporate mergers, acquisitions and restructuring tend to increase the demand for bargaining unit reviews. Corporate bankruptcies and insolvencies frequently result in a loss of or decrease in the level of collectively bargained salary and employment benefits, with resultant increases in duty of fair representation (DFR) and bad faith bargaining complaints. The negotiation or renegotiation of collective agreements in areas essential to public health or safety creates demand for Board investigations and rulings on maintenance of activities issues.

Although the nature of the demand for Board services may vary, depending on the state of the economy, the absolute number of incoming applications and complaints has remained relatively constant over the last few years, with only a marginal decrease during 2010–11 compared to the previous fiscal year. In addition, the profile of cases received by the Board in 2010–11 has not changed significantly from the previous year except for a slight increase in the number of certification applications and the number of applications for a declaration of an illegal strike or lockout.

### **Processing Time**

The Board's largest operational risk is associated with the number of applications and complaints it receives in a given year, combined with its ability to continue to reduce its backlog of cases. To mitigate this risk, priority is given to the processing and consideration of matters in which it appears that delay will pose a significant potential for adverse industrial relations consequences, or where other identifiable factors require a matter to be promptly addressed. In recent years, the CIRB also adopted and implemented new procedures for the processing of certification applications and DFR complaints. This has resulted in significant improvements in the processing of both types of applications. The average processing time for certification applications was reduced by 50% over the previous year and the average processing time for DFR complaints was, for a second consecutive year, half of what it was two years ago.

### **Quality of Decisions**

In addition to the timeliness of decisions, a second operational risk involves the quality of the decisions. Decisions that are not based on sound legal and industrial relations principles would not only lead to flawed jurisprudence, but would also create uncertainty in the client community. It should be noted that all but two judicial review applications to the Federal Court of Appeal were dismissed in 2010–11. This underscores the importance of the timeliness and quality of Governor-in-Council appointments that are made to the Board and the experience and expertise that these appointees bring to it.

### **Financial and Human Resources Management**

The Board's workload can vary significantly from time to time and from region to region. The CIRB's ability to respond and adjust rapidly to meet the demand is critical in ensuring timely and

seamless delivery of services across the country. The CIRB has taken steps to implement an exchange program that enables staff to shadow colleagues in other offices and build practical experience in both headquarter and regional offices. This has encouraged mobility of staff and the sharing of workload where necessary.

In addition, the CIRB, like most of the federal public service, is facing challenges with employee retention and departures due to retirement. In the last year alone, two regional directors have retired and a number of staff in other key positions have either retired or left the Board for opportunities in other departments. As the CIRB is a small and specialized organization, the impact of staff turnover can be significant. Maintaining continuity of the Board's corporate knowledge requires sustained focus on recruitment, training and succession planning. In the past two years, the Board has responded by putting in place development programs and by facilitating learning assignments for industrial relations officers, case management officers and communications officers. This has resulted in indeterminate appointments of highly qualified internal candidates in higher level positions. This initiative has also permitted retention of corporate knowledge while some employees explored other career opportunities within the organization through deployments.

## Summary of Performance

### 2010–11 Financial Resources (\$ thousands)

| Planned Spending | Total Authorities | Actual Spending |
|------------------|-------------------|-----------------|
| 13,017           | 13,687            | 13,287          |

### 2010–11 Human Resources (full-time equivalents—FTEs)

| Planned | Actual | Difference |
|---------|--------|------------|
| 110     | 102.5  | -7.5       |

**Strategic Outcome:** Effective dispute resolution services that support constructive labour-management relations in sectors regulated by the *Canada Labour Code*

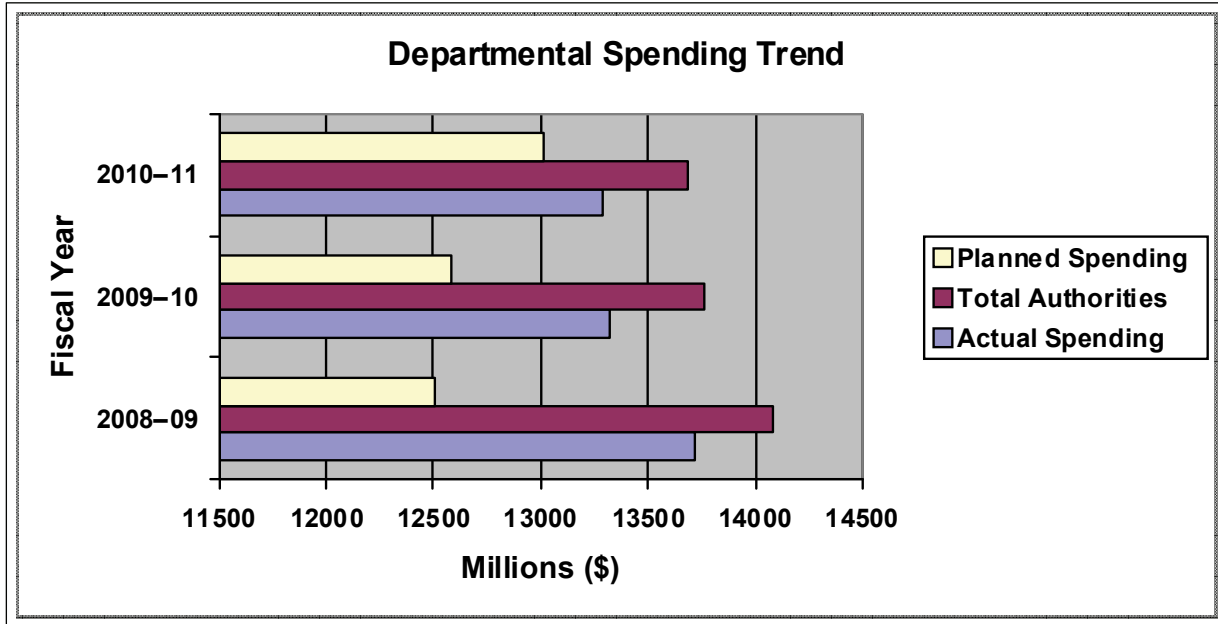
| Performance Indicators                                       | Targets   | 2010–11 Performance  |
|--|---|--|
| CIRB decisions overturned by the Federal Court of Appeal     | Less than one percent of all decisions rendered are overturned by the Federal Court of Appeal   | Two decisions of the Board were overturned by the Federal Court of Appeal representing 0.4% of all decisions rendered by the Board during the year |
| Number of applications/complaints resolved through mediation | Fifty percent of cases are resolved through mediation   | Forty-eight percent of unfair labour practice complaints were either settled or withdrawn without the need for adjudication                        |
| Decisions are issued within statutory deadlines              | Average decision-making time is less than 90 days from the date the Board reserved its decision | The average decision-making time is 64 days  |
| Reduction of CIRB's average case disposition time            | Seventy percent of cases are processed in less than one year                                    | Eighty-five percent were processed in less than one year   |

| Program Activity                            | 2009–10 Actual Spending (\$ thousands) | 2010–11 <sup>2</sup> (\$ thousands) |                  |                   |                 | Alignment to Government of Canada Outcome  |
|---|--|-------------------------------------|------------------|-------------------|-----------------|--|
|   |  | Main Estimates                      | Planned Spending | Total Authorities | Actual Spending |  |
| Adjudication and Dispute Resolution Program | 9,546                                  | 9,437                               | 9,437            | 9,753             | 9,468           | Fair and Secure Marketplace<br><br>The CIRB promotes stable industrial relations within the industrial sectors that fall under federal jurisdiction, thus ensuring safe, fair and productive workplaces that contribute positively to the Canadian economy |
| Internal Services                           | 3,780                                  | 3,580                               | 3,580            | 3,934             | 3,819           |  |
| Total                                       | 13,326                                 | 13,017                              | 13,017           | 13,687            | 13,287          |  |

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2. Commencing in the 2009–10 Estimates cycle, the resources for Program Activity: Internal Service are displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.



## Expenditure Profile



The difference between planned spending and total authorities represents adjustments made to the Board's budget to address costs related to employee benefits and reflect amounts carried over from the previous year.

## Estimates by Vote

For information on our organizational Votes and/or statutory expenditures, please see the 2010–11 Public Accounts of Canada (Volume II) publication. An electronic version of the Public Accounts is available on the Public Works and Government Services Canada Website.<sup>3</sup>

3. See Public Accounts of Canada 2010, <http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html>.



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## Section II: Analysis of Program Activities by Strategic Outcome

### Strategic Outcome

#### **Effective dispute resolution services that support constructive labour-management relations in sectors regulated by the *Canada Labour Code***

When the Board receives an application or complaint, it is usually because there is some form of unresolved conflict or problem in the workplace that the parties involved have been incapable of resolving on their own. Through mediation or by issuing a decision, the Board effectively and directly contributes to its sole strategic outcome, namely, the resolution of labour relations issues. The impact of the work of the Board can be both broad-ranging and significant. The Board's decisions and mediation efforts often affect, in very tangible ways, the working lives of thousands of Canadians, the economic position of leading Canadian corporations, and the general well-being of the Canadian public.

The Board also contributes, in an indirect but no less important manner, to effective industrial relations in the federal jurisdiction. Each time it issues a decision, the Board adds to its growing jurisprudence, which is widely disseminated to the industrial relations community. Clear and consistent jurisprudence provides an environment where potential litigants are more likely to resolve matters on their own, rather than to bring the matter before the Board. It is, however, difficult to ascribe a quantitative measure to this contribution to the labour-management relationship.

#### **Program Activity: Adjudicative and Dispute Resolution Program**

The CIRB has only one key operational program activity—the Adjudicative and Dispute Resolution Program. Through this program, the CIRB resolves labour relations issues by exercising its statutory powers relating to the application and interpretation of Part I (Industrial Relations), and certain provisions of Part II (Occupational Health and Safety), of the *Code*. Activities include the granting, modification and termination of bargaining rights; the investigation, mediation and adjudication of complaints alleging violation of Part I of the *Code*; the determination of levels of services required to be maintained during a work stoppage; the exercise of ancillary remedial authority; the exercise of cease and desist powers in cases of unlawful strikes or lockouts; and the settlement of the terms of a first collective agreement.

**2010–11 Financial Resources (\$ thousands)**

| Planned Spending | Total Authorities | Actual Spending |
|------------------|-------------------|-----------------|
| 9,437            | 9,753             | 9,468           |

**2010–11 Human Resources (FTEs)**

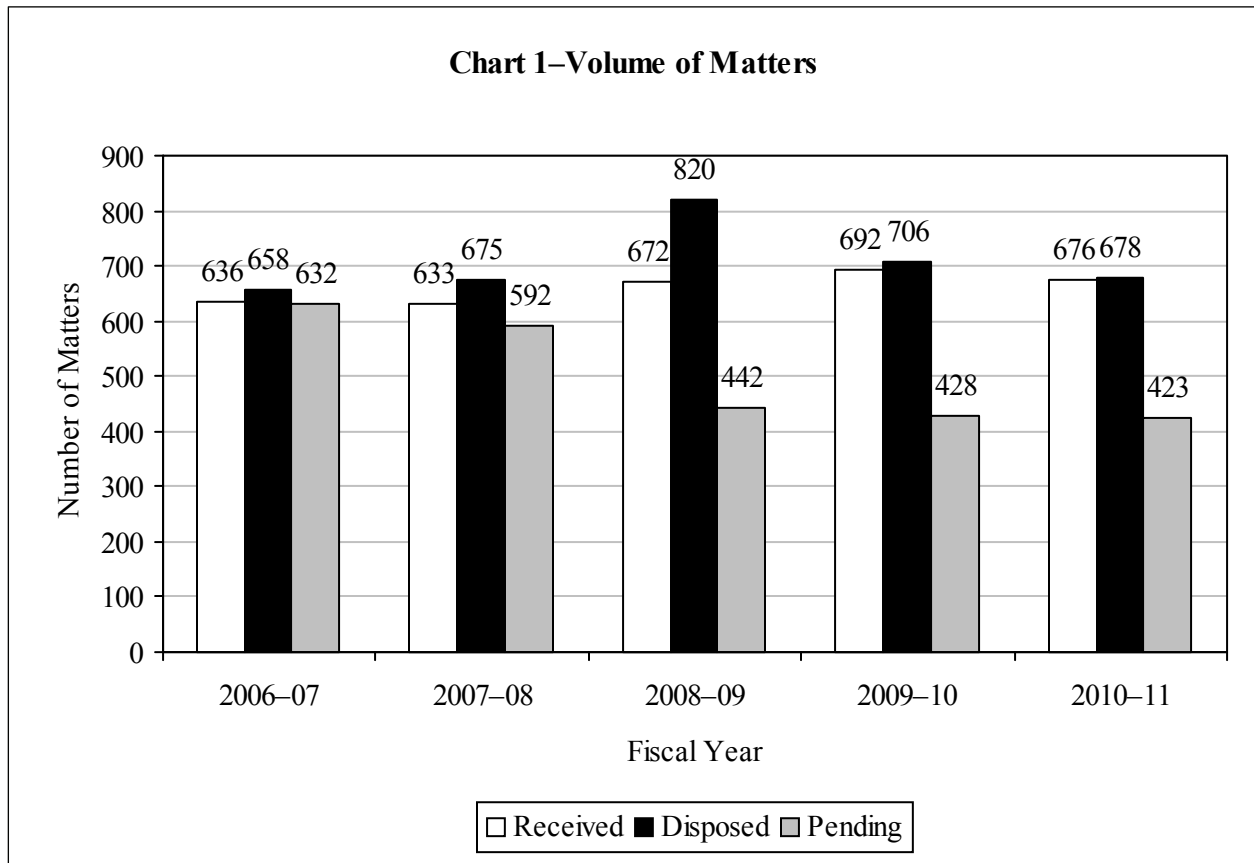
| Planned | Actual | Difference |
|---------|--------|------------|
| 76      | 72.25  | -3.75      |

| Expected Results   | Performance Indicators                                       | Targets   | Performance Status   |
|--|--|---|--|
| Labour relations issues are resolved in a timely, fair and consistent manner | CIRB decisions overturned by the Federal Court of Appeal     | Less than one percent of all decisions rendered are overturned by the Federal Court of Appeal   | Two decisions of the Board were overturned by the Federal Court of Appeal representing 0.4% of all decisions rendered by the Board during the year |
|  | Number of applications/complaints resolved through mediation | Fifty percent of cases are resolved through mediation   | Forty-eight percent of unfair labour practice complaints were either settled or withdrawn without the need for adjudication                        |
|  | Decisions are issued within statutory deadlines              | Average decision-making time is less than 90 days from the date the Board reserved its decision | The average decision-making time is 64 days  |
|  | Reduction of CIRB's average case disposition time            | Seventy percent of cases are processed in less than one year                                    | Eighty-five percent were processed in less than one year   |

## Performance Summary and Analysis of Program Activity

### Volume of Matters

While the nature of the demand for Board services may vary, depending on the state of the economy and other factors, the absolute number of incoming applications/complaints has remained relatively constant over the last five fiscal years. A total of 676 applications/complaints were received in 2010–11, which represents 16 less cases than in 2009–10 (see Chart 1). This level is much lower than the average of 823 per year in the earlier part of the decade.



Unfair labour practice (ULP) complaints continue to represent the highest volume of cases at 43% of incoming matters in 2010–11. This is further broken down, with DFR complaints representing 25.7% of cases and other ULP complaints representing 17.3% of cases. Applications for certification and review also represent a significant portion of incoming matters at 18% and 15.7% respectively.

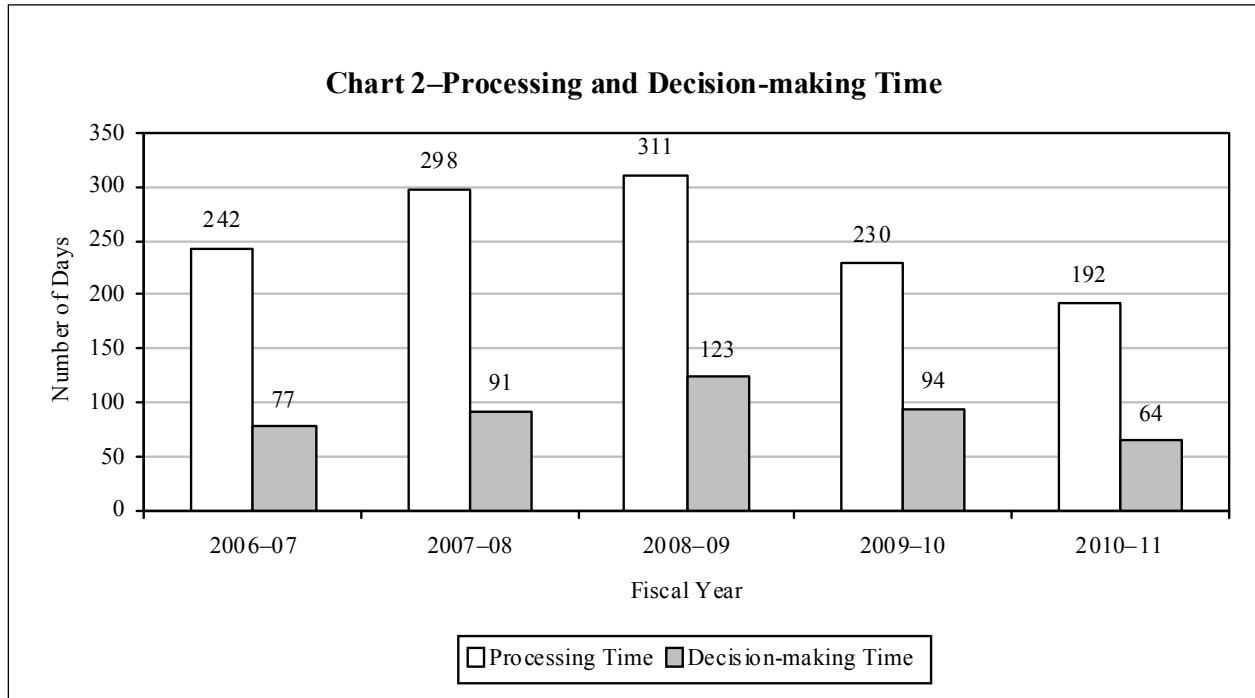
With respect to the number of cases that were resolved, the Board disposed of 678 matters in 2010–11, which is 28 fewer cases than in the previous fiscal year (see Chart 1) and 17% less than two years ago. The current rate of disposition is probably more indicative of the Board's

sustainable level given its current resources and volume of matters. The fact that the Board conducted a blitz in 2008–09 to resolve a large number of DFR complaints that had accumulated over the years resulted in the Board disposing of more matters in 2008–09 than it would otherwise have done. The number of pending matters is now at 423 cases and appears to represent the regular norm of ongoing and current cases that are being processed pursuant to the prescribed timelines or are scheduled for mediation meetings or hearings. It should be noted that less than 12% of those cases have been pending for more than 24 months—a significant improvement from just three years ago where 24% of cases had been pending for more than two years.

### **Processing Time**

The average time required to process a file—the time spent opening, investigating, mediating, hearing, and deciding a case—continued to drop significantly in 2010–11 to 192 calendar days from 230 in 2009–10. This is the lowest average in several years (see Chart 2). Although the decline in average processing time is evident for most types of matters in 2010–11, it is largely the result of the significant reduction in the processing of certification applications, which stood at 108 calendar days in 2010–11 compared to 201 days in the previous year. Also of note is the reduction in processing time for single employer applications, which are complex matters that generally require more time and resources for their disposition. In 2010–11, the Board was successful in managing these cases effectively and reducing their average processing time by 100 calendar days.

Reducing the backlog of pending cases and improving average case disposition time are, to a certain extent, related and highly dependent on various initiatives that were introduced over the years to improve the processing of cases. These initiatives have reduced the number of backlog cases to its lowest level in 25 years as well as lowered the average processing time of applications/complaints by more than 35% over three years.



### Decision-making Time

The Board issues detailed *Reasons for decision* in matters of broader national significance and/or significant precedential importance. In other matters, concise letter decisions help expedite the decision-making process, thereby providing more timely industrial relations outcomes for the parties involved. The Board also disposes of certain matters by issuing an order that summarizes the Board’s decision. The Board strives to provide timely and legally sound decisions that are also consistent across similar matters in order to establish strong and clear jurisprudence.

One component of the overall processing time is the length of time required by a Board panel to prepare and issue a decision following the completion of the hearing of a matter. A panel may decide a case without a hearing on the basis of written and documentary evidence, such as investigation reports and written submissions, or may defer the decision until further evidence and argument is obtained via an oral hearing.

In 2010–11, the CIRB issued 69 detailed *Reasons for decision*, 204 letter decisions and 206 orders, for a total of 479 written decisions.

Similar to processing time, the average decision-making time of disposed matters dropped significantly in 2010–11 to 64 days from 94 days in 2009–10 (see Chart 2). Another approach to evaluating the Board’s performance on decision-making time is to use section 14.2(2) of the *Code* as a benchmark. This section requires that a panel must render its decision and give notice of it to the parties no later than ninety days after the day on which it reserved its decision or within any further period that may be determined by the Chairperson. By this criterion, the Board showed continued improvement in 2010–11 with close to 80% of cases having a decision rendered in 90 days or less, compared to 77% in 2009–10.

Additional statistics on the Board's performance can be found at: [http://www.cirb-ccri.gc.ca/publications/report-rapport\\_eng.asp](http://www.cirb-ccri.gc.ca/publications/report-rapport_eng.asp).

## **Judicial Reviews**

Another measure of the Board's performance, as well as a measure of the quality and soundness of its decisions, is the frequency of applications for judicial review of Board decisions by the Federal Court, and the percentage of decisions upheld as a result of these reviews. In this respect, the Board continues to perform exceptionally well. Of the 26 applications for judicial review filed with the Federal Court in 2010–11, only two of the Board's decisions were not upheld, and in the last five fiscal years, only four applications for judicial review were granted by the Court.

## **Dispute Resolution Through Mediation**

The *Canada Labour Code* specifically gives the Board extensive powers to “assist the parties in resolving any issues in dispute at any stage of a proceeding and by any means that the Board considers appropriate.” Accordingly, the Board has placed considerable emphasis on mediation in order to help parties find alternative solutions to their dispute without the need for an adjudicated decision. However, even in cases where mediation does not result in the full resolution or withdrawal of a matter, it is useful in clarifying or reducing the number of issues in dispute or in developing a more positive, problem-solving relationship between the parties.

In 2010–11, the Board implemented tracking measures to capture the success rate of its mediation efforts. Results indicate that almost half of ULP complaints were settled or withdrawn. These results, however, do not account for the settlements that are often incorporated in Board decisions or orders. If these types of settlement were appropriately captured in the performance measures, it would likely result in the Board exceeding its target. This highlights the need to further refine this performance indicator and accompanying tracking mechanisms to better reflect the success of the Board's mediation services.

## **Program Activity: Internal Services**

The second activity of the Board, which would not exist without the first, is to provide the internal support and administrative services required to carry out the Board's primary program. It consists of the groups of activities and resources that are administered to support the operational needs of the Board's Adjudicative and Dispute Resolution Program and other corporate obligations of the CIRB, including Central Agency requirements. These groups are: management and oversight services; human resources services; financial and administrative services (including facilities, materiel and procurement services); information management services; and information technology services.



**2010–11 Financial Resources (\$ thousands)**

| Planned Spending | Total Authorities | Actual Spending |
|------------------|-------------------|-----------------|
| 3,580            | 3,934             | 3,819           |

**2010–11 Human Resources (FTEs)**

| Planned | Actual | Difference |
|---------|--------|------------|
| 34      | 30.25  | -3.75      |

**Performance Summary and Analysis of Program Activity**

Internal services make a critical contribution to the achievement of the sole primary program. The Board is committed to continuously seek effective and efficient internal service delivery and is working to address challenges in line with the Clerk of the Privy Council's Public Service Renewal priorities. During the reporting period, the Board continued the review of its Client and Corporate Services, taking into consideration the evolving federal government direction with respect to shared services, where appropriate. Progress has been made on the planning of mitigation strategies to alleviate skills shortages and high employee turnover.

**Lessons Learned**

The complexity and implications of the issues facing federally regulated employers and unions require the Board to judiciously apply a wide range of knowledge and skills in diverse industrial relations, labour law and administrative law contexts. The development of Board jurisprudence and a generally stable economic environment over most of the 2000 decade resulted in a decrease in the number of cases coming before the Board, but the current environment may well change that situation. It is possible that the Board will receive more ULP complaints as a result of difficulties at the bargaining table, as well as more applications related to corporate restructuring or sale of business.

The significant improvement in the average processing time of applications and complaints has shown the Board that innovative measures developed in consultation with stakeholders are both possible and effective. Over the next year, stakeholder consultations are expected to focus on the review of the Board *Regulations*, and will likely lead to the implementation of other measures that will have as great an impact on case processing and disposition.



## Section III: Supplementary Information

### Financial Highlights

#### Condensed Statement of Financial Position

As at March 31, 2011 (\$ thousands)

|                   | % Change | 2010–11 | 2009–10* |
|-------------------|----------|---------|----------|
| Total assets      | -10%     | 2,790   | 3,108    |
| Total liabilities | -3%      | 3,193   | 3,279    |
| Equity of Canada  | 136%     | (403)   | (171)    |
| Total             | -10%     | 2,790   | 3,108    |

\* 2009-2010 numbers for Assets and Equity were restated following the adoption of the new accounting policy in 2010–11. Please see note 9 to the Financial Statement for more detail

Total assets were \$2.8 million in 2010–11, a decrease of \$318 thousand over the previous year. Tangible capital assets represent the largest portion of assets at \$1.9 million.

Total liabilities were \$3.2 million in 2010–11, a decrease of \$86 thousand over the previous year. Employee benefits represent the largest portion of liabilities at \$2.4 million. The balance of \$835 thousands represents accounts payable.

#### Condensed Statement of Operations

For the year ended March 31, 2011 (\$ thousands)

|                        | % Change | 2010–11 | 2009–10 |
|------------------------|----------|---------|---------|
| Total expenses         | -1%      | 17,031  | 17,174  |
| Total revenues         | 100%     | 1       | 0       |
| Net cost of operations | -1%      | 17,030  | 17,174  |

Total expenses were \$17 million in 2010–11, a decrease of \$143 thousand compared to 2009–10.

## Financial Statements

The financial highlights presented within this Departmental Performance Report are intended to serve as a general overview of CIRB's financial position and operations. The Board's financial statements can be found on the CIRB's Website at: [http://www.cirb-ccri.gc.ca/publications/report-rapport\\_eng.asp](http://www.cirb-ccri.gc.ca/publications/report-rapport_eng.asp).

## List of Supplementary Information Tables

All electronic supplementary information tables found in the *2010–11 Departmental Performance Report* can be found on the Treasury Board of Canada Secretariat Website.<sup>4</sup>

- ▶ Green Procurement
- ▶ Internal Audits and Evaluations

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4. See 2010–11 Part III—Departmental Performance Reports (DPR): Supplementary Information (Tables), <http://www.tbs-sct.gc.ca/dpr-rmr/2010-2011/index-eng.asp>.

## Section IV: Other Items of Interest

### Additional Information

- **Organizational Information**
  - o Mandate, Role and Responsibilities  
[http://www.cirb-ccri.gc.ca/about-apropos/role\\_eng.asp](http://www.cirb-ccri.gc.ca/about-apropos/role_eng.asp)  
[http://www.cirb-ccri.gc.ca/index\\_eng.asp](http://www.cirb-ccri.gc.ca/index_eng.asp)
  - o Departmental Organization  
<http://www.cirb-ccri.gc.ca/about-apropos/cirborg.pdf>  
[http://www.cirb-ccri.gc.ca/about-apropos/members-membres/index\\_eng.asp](http://www.cirb-ccri.gc.ca/about-apropos/members-membres/index_eng.asp)
  
- **Board decisions can be found at:**  
[http://www.cirb-ccri.gc.ca/decisions/index\\_eng.asp](http://www.cirb-ccri.gc.ca/decisions/index_eng.asp)
  
- **Additional Statistical Reports can be found at:**  
[http://www.cirb-ccri.gc.ca/publications/report-rapport\\_eng.asp](http://www.cirb-ccri.gc.ca/publications/report-rapport_eng.asp)

### To Contact the Board

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Email: [info@cirb-ccri.gc.ca](mailto:info@cirb-ccri.gc.ca)

Website: <http://www.cirb-ccri.gc.ca>