

March 2010

CANADA

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser at the Department of Foreign Affairs and International Trade Canada (“DFAIT”) holds a rank equivalent to Assistant Deputy Minister and reports to the Minister and Deputy Minister of Foreign Affairs, as well as the Minister and Deputy Minister of International Trade.

The Legal Adviser heads the Legal Branch of DFAIT, which consists of the Legal Affairs Bureau, the Trade Law Bureau, Justice Legal Services and the Ambassador for Fisheries Conservation.

The Legal Adviser position is traditionally occupied by a member of the Canadian Foreign Service and is not a political appointment. In Canada, the position of Legal Adviser on international affairs has existed in the foreign ministry since 1913.

2. What are the principal functions of the OLA?

The Legal Affairs Bureau of DFAIT plays a key role in assisting the Minister of Foreign Affairs and the Minister of International Trade in their statutory duties to foster the development of international law, both political and trade-side, and its application in Canada’s external relations. To this end, the Legal Affairs Bureau is the principal source of legal services and advice to the Government of Canada on an increasingly wide and complex range of international issues. In addition to providing advice on Canada’s rights and obligations under international law, the Bureau also manages and develops policy on international legal issues, and ensures that Canada’s domestic legal regime is in accord with its international obligations.

The Legal Affairs Bureau provides operational services, including the coordination of written and oral advocacy on behalf of Canada in international litigation, particularly before the International Court of Justice. It also plays an important role in the negotiation of treaties and other international instruments. The Bureau’s Legal Officers often serve as members of Canadian delegations for international negotiations and meeting. The Bureau further provides expertise on the ratification and interpretation of treaties and maintains Canada’s Treaty Registry. Finally, it provides services to the public, including the management and espousal of international claims and the authentication of documents for service abroad.

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The Ambassador for Fisheries Conservation is responsible for promoting Canada’s priorities with respect to global fisheries and to raise concerns related to overfishing.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

The Legal Branch currently has over 200 full-time employees. The Legal Affairs Bureau employs 55 Legal Officers, most of whom are also rotational Foreign Service Officers. The Trade Law Bureau has approximately 45 lawyers on staff, both rotational Foreign Service Officers and Department of Justice lawyers. Justice Legal Services employs approximately 15 Legal Counsel, and is staffed primarily by Department of Justice lawyers. All Legal Officers hold law degrees from recognized Canadian law schools, and most are also members of at least one provincial bar association, (and are thus eligible to practice law in Canada). Many Legal Officers have previous legal experience in the private or public sector. Other staff working in the Legal Branch include: paralegals, administrative assistants, records officers, treaty clerks and authentication of document officers.

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The Legal Affairs Bureau, which is headed by the Deputy Legal Adviser and Director General, consists of five Divisions: the Criminal, Security and Diplomatic Law Division, the Treaty Law Division, the United Nations, Human Rights and Economic Law Division, the Oceans and Environmental Law Division and the Continental Shelf Division. Each of these Divisions is led by a Director, with further supervision by Deputy Directors.

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The Branch is closely engaged in encouraging a consistent and coherent Canadian approach to international law. The Legal Affairs Bureau provides legal advice to policy divisions, as well as to other government departments, whenever a file contains issues related to international law and regarding the negotiation and implementation of international agreements. The lawyers in the Legal Branch work closely with their colleagues in other Branches of DFAIT and in other government departments in order to ensure that Canadian foreign policy is consistent with Canada's obligations under international law.

6. What are the main contacts of the OLA within Government?

The Legal Affairs Bureau works with various divisions throughout the federal government, the Department of Justice, the Department of National Defence, the Department of Fisheries and Oceans, Natural Resources Canada, Canadian Heritage, Canadian International Development Agency, Citizenship and Immigration Canada, Environment Canada, Health Canada, Transport Canada, Canada Border Services Agency, Canadian Nuclear Safety Commission, Canadian Space Agency and the Privy Council Office.

In addition, the Legal Affairs Bureau consults with the relative departments of the provincial and territorial governments regarding matters that fall within their jurisdiction or may have an impact upon them.

7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The Legal Branch maintains a strong relationship with lawyers in private practice, academics and legal institutions. Several members of the Legal Branch's staff, including the Legal Adviser, have taught courses at the University of Ottawa and the Norman Paterson School of International Affairs at Carleton University. In addition, the Legal Affairs Bureau has a visiting academic on staff who retains that position for one to two years. Many of the Branch's Legal Officers are members of external institutions and organizations such as the Canadian Council on International Law.

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March 2010

CANADA

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser at the Department of Foreign Affairs and International Trade Canada (“DFAIT”) holds a rank equivalent to Assistant Deputy Minister and reports to the Minister and Deputy Minister of Foreign Affairs, as well as the Minister and Deputy Minister of International Trade.

The Legal Adviser heads the Legal Branch of DFAIT, which consists of the Legal Affairs Bureau, the Trade Law Bureau, Justice Legal Services and the Ambassador for Fisheries Conservation.

The Legal Adviser position is traditionally occupied by a member of the Canadian Foreign Service and is not a political appointment. In Canada, the position of Legal Adviser on international affairs has existed in the foreign ministry since 1913.

2. What are the principal functions of the OLA?

The Legal Affairs Bureau of DFAIT plays a key role in assisting the Minister of Foreign Affairs and the Minister of International Trade in their statutory duties to foster the development of international law, both political and trade-side, and its application in Canada’s external relations. To this end, the Legal Affairs Bureau is the principal source of legal services and advice to the Government of Canada on an increasingly wide and complex range of international issues. In addition to providing advice on Canada’s rights and obligations under international law, the Bureau also manages and develops policy on international legal issues, and ensures that Canada’s domestic legal regime is in accord with its international obligations.

The Legal Affairs Bureau provides operational services, including the coordination of written and oral advocacy on behalf of Canada in international litigation, particularly before the International Court of Justice. It also plays an important role in the negotiation of treaties and other international instruments. The Bureau’s Legal Officers often serve as members of Canadian delegations for international negotiations and meeting. The Bureau further provides expertise on the ratification and interpretation of treaties and maintains Canada’s Treaty Registry. Finally, it provides services to the public, including the management and espousal of international claims and the authentication of documents for service abroad.

The Trade Law Bureau provides legal services on all aspects of International Trade Law, including negotiating and implementing Canada’s multilateral, regional and bilateral trade and investment agreements, as well as litigating on behalf of Canada in disputes arising under those agreements.

Justice Legal Services provides legal services to DFAIT on a wide range of domestic issues concerning the application of Canadian federal, provincial and territorial laws, regulations and policies to the department’s mandate and corporate activities.

The Ambassador for Fisheries Conservation is responsible for promoting Canada’s priorities with respect to global fisheries and to raise concerns related to overfishing.

3. Please give a brief description of staff employed by the OLA, including overseas staff.

The Legal Branch currently has over 200 full-time employees. The Legal Affairs Bureau employs 55 Legal Officers, most of whom are also rotational Foreign Service Officers. The Trade Law Bureau has approximately 45 lawyers on staff, both rotational Foreign Service Officers and Department of Justice lawyers. Justice Legal Services employs approximately 15 Legal Counsel, and is staffed primarily by Department of Justice lawyers. All Legal Officers hold law degrees from recognized Canadian law schools, and most are also members of at least one provincial bar association, (and are thus eligible to practice law in Canada). Many Legal Officers have previous legal experience in the private or public sector. Other staff working in the Legal Branch include: paralegals, administrative assistants, records officers, treaty clerks and authentication of document officers.

Foreign Service Officers who work as Legal Officers while posted at headquarters in Ottawa are often also rotated abroad to work at Canadian missions around the world. While these overseas postings may involve significant legal work, these Foreign Service Officers often find themselves engaged in the general work of the Canadian Foreign Service - promoting Canada's political, economic, trade and cultural interests. Certain positions abroad at Canada's Permanent Missions to the United Nations in New York and in Geneva, as well as in the Congressional and Legal Sections at the Canadian Embassy in Washington, are staffed by Foreign Service lawyers.

4. Briefly describe the organisation and structure of the OLA.

The Legal Branch at DFAIT is divided into three Bureaus - the Legal Affairs Bureau, the Trade Law Bureau and Justice Legal Services. The head of each Bureau reports directly to the Legal Adviser. The Branch also has an Area Management Office responsible for administration. In 2007, the Government of Canada, through an Order in Council, created the position of Ambassador for Fisheries Conservation, which also falls under the framework of the Legal Branch.

The Legal Affairs Bureau, which is headed by the Deputy Legal Adviser and Director General, consists of five Divisions: the Criminal, Security and Diplomatic Law Division, the Treaty Law Division, the United Nations, Human Rights and Economic Law Division, the Oceans and Environmental Law Division and the Continental Shelf Division. Each of these Divisions is led by a Director, with further supervision by Deputy Directors.

- The Criminal, Security and Diplomatic Law Section provides legal advice on issues relating to international crime, terrorism and security, and privileges and immunities law, both for domestic issues and those facing DFAIT employees abroad. As well, the Division assists Canadians with the authentication of documents for use in foreign jurisdictions.
- The Treaty Law Division is the lead division for the negotiation and implementation of Canadian treaties. It provides legal advice on treaty law and maintains Canada's Treaty Registry.
- The United Nations, Human Rights and Economic Law Division (which includes the United Nations, Human Rights & Humanitarian Law Section and the Economic Law Section) provides legal advice on areas relating to the United Nations, international peace and security, defence and disarmament, humanitarian law, human rights, children's rights, international health law, economic sanctions, international air and space law, international claims law and international economic law. The Division is also actively engaged in Canada's support for the International Criminal Court.

- The Oceans and Environmental Law Division is concerned with the development and maintenance of a rules-based international system to manage our oceans and environment. The Division is involved in the development and implementation of numerous bilateral, regional and multilateral agreements, and handles a diverse array of issues, such as: international and bilateral fisheries questions, Arctic sovereignty matters, trans-boundary pollution and water resources questions, biodiversity, desertification and bio-safety issues, and energy issues.
- The Continental Shelf Division is responsible for Canada's submission to the United Nations Commission on the Limits of the Continental Shelf, due in 2013. The Division is also responsible for related matters, such as the International Seabed Authority and offshore hydrocarbons.

The Trade Law Bureau advises the Government of Canada on its rights and obligations under international trade law, provides legal advice on the negotiation and implementation of multilateral, regional and bilateral trade and investment agreements; and represents Canada in dispute settlement proceedings under the NAFTA and the WTO.

The Bureau, which is headed by a Director General, consists of two Divisions: the Market Access and Trade Remedies Law Division and the Investment and Services Law Division, each overseen by a Director and further supervised by Deputy Directors.

Justice Legal Services, headed by a General Counsel, provides legal services to DFAIT on domestic legal issues related to the department's mandate and corporate activities. Justice Legal Services also has responsibility for Canadian domestic law questions including: property/commercial law, the Hague Convention on the Civil Aspects of International Child Abduction, access to information and privacy, passport issues and other legal matters which have a primarily domestic law context.

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