what type of issue/error was committed, it will decide which standard of review is applicable. Jurisdictional issues are ones which define a tribunal's powers. A tribunal must be correct on such an issue. Jurisdictional issues are reviewed by the "correctness" standard. Issues/errors within an agency's jurisdiction are reviewed according to the "patently unreasonable" test to determine if an administrative agency appropriately within its jurisdiction or extended it too far. Courts may overturn a determination if there was a reasonable indication that the agency went beyond its jurisdiction.

Canadian courts have accorded agency determinations a great deal of deference in the process of review. Courts have determined the required degree of deference and standard of review by assessing a number of factors such as the nature of issue that was put before the tribunal by Parliament, and the tribunal's empowering statute. In *U.E.S. Local 298 v Bibeault* (1988), the Supreme Court held that if it was determined that Parliament intended the question to be answered by the tribunal, the issue was considered to be "within jurisdiction" and the "patently unreasonable" standard was applied. If, however, Parliament intended the question to be answered by the courts, the issue was to be considered "jurisdictional" and the tribunal would have to be "correct" in its interpretation of the relevant legislative provisions.[6]

Canadian courts have shown a great amount of deference to the CITT with respect to errors/issues within jurisdiction. Deference to the CITT has been extremely high because it was protected by a privative clause until 1994. Section 76(1) of the *Special Import Measures Act* (SIMA) demanded that administrative findings of the CITT were "final and conclusive." The legacy of Section 76(1) ensured that the CITT could only be subjected to judicial review if its interpretation of its statutory authority was so "patently unreasonable that its construction could not be rationally supported by relevant legislation."[7]

The CITT's privative clause was repealed on January 1, 1994. The CITT may now be reviewed to determine if it committed an error of law. Canadian courts and panels have now begun to follow the Supreme Court in *Pezim v British Columbia* (1994). *Pezim* dictated that "considerable deference" should be shown to an agency in the absence of the privative clause when the court examines alleged errors of law. In addition, "considerable deference" was a slightly lower standard of deference than "patently unreasonable" and considered the expertise

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[6] *U.E.S. Local 298 v Bibeault* (1988) 2 S.C.R., 1087-1088; Joel Robichaud, "Chapter 19 of the FTA and NAFTA: The First Seven Years of Judicial Review in Canada." (Ottawa: Unpublished, 1995), 15.

[7] *S.E.I.U. Co. 333 v Nipawin District Staff Nurses' Association*, 1 S.C.R. (1975), 382; *CUPE v N.B. Liquor Corporation*, 2 S.C.R. (1979), 227.