

- (i) reviewing the proposed amendments to the Farm Products Marketing Agencies Act;
- (j) reviewing the Wild Animal and Plant Protection Act (which proposes to discontinue the use of the EIPA for implementation of CITES);
- (k) reviewing the proposed Canadian Environmental Assessment Act.

b) **Personnel Matters**

In 1991, our Unit was more involved in labour law issues than in previous years. The advice given in respect of developments in the jurisprudence and in legislation and advice in respect of the strike, deserve special mention:

1. **Developments in the jurisprudence**

The PSAC decision (currently on appeal to the Supreme Court of Canada) limits the ability of the government to reduce the number of person years by contracting out to the private sector work traditionally performed by civil servants. Legal advice was given to EAIRC in respect of the impact of this decision on the department's program realignment and resource allocation exercise. In the PSAC decision, the Court held that it would be a breach of the spirit and letter of the Workforce Adjustment Policy to act as if the services of an employee, whose job has been contracted out, are not required because of lack of work or discontinuance of a function.

In the Econosult case, the issue was whether individuals employed by a private company, who were performing the same duties as they formerly did as civil servants, could become employees of the Crown and PSAC members for purposes of collective bargaining. The Supreme Court of Canada found that these individuals were not employees within the meaning of the Public Service Staff Relations Act. This case does not substantially reduce the risk of EAIRC or other government departments attracting the onerous responsibilities of an employer in respect of individuals whose services are engaged by contract. These responsibilities include potential liability for unemployment insurance and Canada Pension Plan premiums, vicarious liability for the individual's negligent or tortious behaviour etc. The case does however, provide limited comfort in respect of services contracts entered into between the government and incorporated entities.