

Federal Court



Cour fédérale

Date: 20170810

Docket: T-856-15

Citation: 2017 FC 763

Ottawa, Ontario, August 10, 2017

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

MINISTER OF NATIONAL REVENUE

Applicant

and

CAMECO CORPORATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is a summary application by the Minister of National Revenue [the Minister] for a compliance order under section 231.7 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) [ITA]. In relation to audits regarding transfer payments, the Minister asks this Court to order approximately 25 personnel from Cameco Corporation and its wholly owned subsidiaries [Cameco] to be made available for interview regarding Cameco's 2010, 2011, and 2012 income

tax years. It was confirmed in Court that Cameco has complied with all audit requests related to the relevant years except the refused request for oral interviews. Cameco has agreed to written questioning by the Minister, but not oral interviews.

[2] The application included a request for an order for production of interview notes but was settled by the parties prior to this hearing so will not be dealt with by these reasons.

[3] For the reasons that follow, I am dismissing this application.

II. Background

[4] Cameco is one of the world's largest uranium producers with its head office located in Saskatoon, Saskatchewan. Cameco has several indirectly wholly-owned subsidiaries situated outside Canada. On May 22, 2013, July 11, 2013, and May 30, 2014, as part of an audit, the Minister demanded in-person interviews with Cameco personnel in relation to their 2010, 2011, and 2012 taxation years [the relevant years]. In replies dated July 4, 2013, August 8, 2013, and June 13, 2014, Cameco refused the Minister's requests.

[5] One of the stated purposes of the Minister's audits is to verify whether Cameco complied with its duties and obligations under the ITA. Specifically, the Minister is concerned that Cameco may not have abided by transfer pricing rules for non-arm's length organizations. Audits have been ongoing every year on the same issues and possibly the same contracts.

[6] The Canada Revenue Agency [CRA] affiant described transfer prices as the prices at which goods, services or property are traded across international borders between related parties.

Transfer prices adopted by a group of related parties are significant as they directly affect the profits to be reported by each of those parties in their respective countries. The arm's length principle requires that, for tax purposes, the terms and conditions agreed to between related parties in their commercial or financial relations (controlled transactions) be the same as those had the parties been dealing with each other at arm's length (uncontrolled transactions).

[7] A transfer pricing review conducted by the Minister verifies that prices or measures of profitability actually received by related parties are comparable to prices or measures of profitability received by unrelated parties engaged in similar transactions.

[8] A functional analysis involves an extensive review of information that is listed in the Applicant's Memorandum of Fact and Law at paragraph 12. The functional analysis is used to understand the corporate group, verify information, determine who the tested party should be and how they are characterized, and finally to assist in the search for comparable transactions.

[9] In March 2001 KPMG prepared a transfer pricing report for Cameco's 1999 taxation year. This was relied upon by Cameco in filing its 1999 through 2005 tax returns. In the course of auditing Cameco's 2003 and prior taxation years, the Minister interviewed – by consent – key personnel from Cameco in 2006, 2007, and 2008. The information obtained from these oral interviews formed part of the Minister's economic and functional analysis of Cameco and led to a reassessment of Cameco's 2003 taxation year.

[10] Cameco engaged KPMG to complete a transfer pricing report prepared in March 2001 and was relied on for Cameco's 1999-2001 taxation years. A transfer pricing report was provided

to the Minister on July 7, 2010, and was relied upon by Cameco for its 2006 and 2007 taxation years. KPMG also prepared transfer pricing reports and functional analyses for Cameco's 2008 and 2009 taxation years as well as ones that focused on the 2010, 2011 and 2012 taxation years.

[11] The Minister requested oral interviews of Cameco personnel to verify information contained in KPMG's 2008 and 2009 transfer pricing reports. Cameco refused this request saying it would cover the issues currently before the Tax Court of Canada or anticipated to be litigated in Cameco's 2003 to 2007 taxation years and it would prejudice Cameco to consent to the interviews.

[12] The CRA, by necessity, relied on the interviews that had taken place in relation to the 2003 assessments to do the reassessments for 2006, 2007, 2008 and 2009 taxation years.

[13] In correspondence dated May 22, 2013, the CRA requested interviews of the following people or positions:

Cameco Corporation

Positions/people that were interviewed last audit cycle:

President and CEO - Gerry Grandey (since retired)

Senior VP and CFO - Kim Goheen (since retired)

Senior VP Marketing and Business Development – George Assie (since retired?)

Director Market Planning and Administration – David Doerksen

Manager Market Administration – Loretta McGowan

Manager Trade/Trans and Fuel Procurement – Doug Zabolney
(no longer with company)

Manager Market Analysis – Penny Buye

Cameco Corporation – cont'd.

Positions/People of interest for this cycle:

Senior VP and COO – Tim Gitzel who is currently CEO. He was replaced by Robert Steane.

Director Government Relations – James Miley

VP SHEQ and Regulatory Relations – Alice Wong

Senior Specialist, Marketing Administration

Cameco Inc.

Positions/People that were interviewed last audit cycle:

Senior VP Marketing/President CCI – George Assie

Positions/People of interest for this cycle:

VP Marketing

Manager Marketing

Director Marketing Administration

Cameco Europe Ltd.

Positions/People that were interviewed last audit cycle:

President – Gerhard Glattes

Positions/People of interest for this cycle:

All individuals reporting to Cameco Europe Ltd.

[...]

[14] On May 30, 2014, the CRA requested interviews of the following people or positions:

Cameco Europe – Switzerland (CEL)

Chairman of the Board/Senior Advisor, Cameco Europe-
Gerhard Glattes

President, Cameco Europe - Markus Bopp

Manager, Administration, Cameco Europe - Ernst Kempf

Any other individuals reporting to Cameco Europe

Cameco Inc USA (CCI)

President, Cameco Inc - James Dobchuk

Cameco Services Inc Barbados (CSI)

Individuals reporting to Cameco Services Inc (Barbados)
(Note 1)

Individuals who signed the January 1, 2001 Service Contract
between Cameco Europe and Cameco Services Inc
(Barbados) (Note 2)

Cameco Corporation –Canada (CCO)

President:

President and Chief Executive officer - Tim Gitzel

Senior Vice-Presidents:

Senior Vice-President of Operations - Robert Steane

Senior Vice-President of Finance - Grant Isaac

Senior Vice President of Corporate Services - Alice Wong

Senior Vice-President of Marketing, Exploration & Corporate
Development - Kenneth Seitz

Senior Vice-President of Governance, Legal & Internal Audit -
Sean Quinn (Note 3)

Vice-Presidents:

Vice President, Corporate Strategy - David Doerksen

Vice-President, Marketing Department - Timothy Gabruch

Vice President, Corporate Development - Caroline Gorsalitz

Directors:

Director, Marketing & Administration - Karen Lloyd

Managers:

Manager, Inventory & Transportation Management - Ryan Chute

Manager, Marketing Administration - Sharon Kuemper

Others:

Corporate Strategy, Industry Research - Penny Buye

Treasury, Assistant Treasurer - Bev Godson

[...] Individuals listed represent the core positions that the CRA wishes to interview. This should not be considered an exhaustive list and the CRA reserves the right to amend, change, add or delete individuals as the interview process progresses.

[Emphasis added.]

[15] The CRA indicated that they were willing to accommodate Cameco and conduct interviews in their choice of Cameco offices in Saskatoon, the United States and Switzerland, or by video conference.

[16] The Minister is auditing Cameco for these relevant years on the same factual basis as the matters currently proceeding in the Tax Court of Canada.

III. Issues

[17] The Minister raises the following issue:

Should Cameco be compelled to produce approximately 25 personnel for interviews in relation to the audit of the 2010, 2011, and 2012 taxation years?

IV. The Law

[18] Section 231.1 of the ITA reads as follows:

Inspections

231.1 (1) An authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act,

(a) inspect, audit or examine the books and records of a taxpayer and any document of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer or to any amount payable by the taxpayer under this Act, and

(b) examine property in an inventory of a taxpayer and any property or process of, or matter relating to, the taxpayer or any other person, an examination of which may assist the authorized person in determining the accuracy of the inventory of the taxpayer or in ascertaining the information that is or should be in the books or records of the taxpayer or any amount payable by the taxpayer under this Act,

and for those purposes the authorized person may

(c) subject to subsection 231.1(2), enter into any premises or place where any business is carried on, any property is kept, anything is done in connection with any business or any books or records are or should be kept, and

(d) require the owner or manager of the property or business and any other person on the premises or place to give

Enquêtes

231.1 (1) Une personne autorisée peut, à tout moment raisonnable, pour l'application et l'exécution de la présente loi, à la fois :

a) inspecter, vérifier ou examiner les livres et registres d'un contribuable ainsi que tous documents du contribuable ou d'une autre personne qui se rapportent ou peuvent se rapporter soit aux renseignements qui figurent dans les livres ou registres du contribuable ou qui devraient y figurer, soit à tout montant payable par le contribuable en vertu de la présente loi;

b) examiner les biens à porter à l'inventaire d'un contribuable, ainsi que tout bien ou tout procédé du contribuable ou d'une autre personne ou toute matière concernant l'un ou l'autre dont l'examen peut aider la personne autorisée à établir l'exactitude de l'inventaire du contribuable ou à contrôler soit les renseignements qui figurent dans les livres ou registres du contribuable ou qui devraient y figurer, soit tout montant payable par le contribuable en vertu de la présente loi;

à ces fins, la personne autorisée peut :

c) sous réserve du paragraphe (2), pénétrer dans un lieu où est exploitée une entreprise, est gardé un bien, est faite une chose en rapport avec une entreprise ou sont tenus ou devraient l'être des livres ou registres;

d) requérir le propriétaire, ou la personne

the authorized person all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act and, for that purpose, require the owner or manager to attend at the premises or place with the authorized person.

ayant la gestion, du bien ou de l'entreprise ainsi que toute autre personne présente sur les lieux de lui fournir toute l'aide raisonnable et de répondre à toutes les questions pertinentes à l'application et l'exécution de la présente loi et, à cette fin, requérir le propriétaire, ou la personne ayant la gestion, de l'accompagner sur les lieux.

[...]

[...]

Requirement to provide documents or information

Production de documents ou fourniture de renseignements

231.2 (1) Notwithstanding any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act (including the collection of any amount payable under this Act by any person), of a listed international agreement or, for greater certainty, of a tax treaty with another country, by notice served personally or by registered or certified mail, require that any person provide, within such reasonable time as is stipulated in the notice,

231.2 (1) Malgré les autres dispositions de la présente loi, le ministre peut, sous réserve du paragraphe (2) et, pour l'application ou l'exécution de la présente loi (y compris la perception d'un montant payable par une personne en vertu de la présente loi), d'un accord international désigné ou d'un traité fiscal conclu avec un autre pays, par avis signifié à personne ou envoyé par courrier recommandé ou certifié, exiger d'une personne, dans le délai raisonnable que précise l'avis :

- (a) any information or additional information, including a return of income or a supplementary return; or
- (b) any document.

- a) qu'elle fournisse tout renseignement ou tout renseignement supplémentaire, y compris une déclaration de revenu ou une déclaration supplémentaire;
- b) qu'elle produise des documents.

[...]

[...]

Compliance Order

Ordonnance

231.7 (1) On summary application by the Minister, a judge may, notwithstanding subsection 238(2), order a person to provide any access, assistance, information or document sought by the Minister under section 231.1 or 231.2 if the judge is satisfied that

231.7 (1) Sur demande sommaire du ministre, un juge peut, malgré le paragraphe 238(2), ordonner à une personne de fournir l'accès, l'aide, les renseignements ou les documents que le ministre cherche à obtenir en vertu des articles 231.1 ou 231.2 s'il est convaincu de ce qui suit :

- (a) the person was required under section

- a) la personne n'a pas fourni l'accès,

231.1 or 231.2 to provide the access, assistance, information or document and did not do so; and

l'aide, les renseignements ou les documents bien qu'elle en soit tenue par les articles 231.1 ou 231.2;

[...]

[...]

A. *The Minister's Position*

[19] The Minister suggests that the only possible interpretation of section 231.1 of the ITA is that the Minister can conduct oral interviews of taxpayers. The ability to conduct oral interviews is an inherent and integral part of the Minister's authority to inspect, audit or examine. The Minister argued that Parliament has both implicitly and explicitly conferred the power to ask questions of taxpayers in the course of an audit.

[20] The Minister's position is that section 231.1 provides for broad audit powers. The Minister stated that if written questions are insufficient then it must be allowed to compel people to attend a meeting. All that is being requested to exercise the power to inspect, audit or examine knowledgeable Cameco personnel. It is not for the person under audit to dictate the manner in which an audit is conducted.

[21] The Minister says it is common practice throughout the course of an inspection audit to ask oral questions and receive a response so this is nothing more than that. The Minister argued that it follows then that a person under audit must answer all proper questions, and this is not restricted to written questions. The Minister's opinion is that what they are requesting is no different than in any audit when an auditor picks up the phone and asks a taxpayer a question and

that is exactly what happens all the time as most auditors are suspicious. The auditors just want to understand the business and do so by asking questions when they do a general audit.

[22] If proportionality is considered, the Minister suggests that the request for only 25 of Cameco's many employees is not unreasonable. The Minister says they are being reasonable in their offer to accommodate Cameco personnel.

[23] Relying on *Canada Trustco Mortgage Co v Canada*, 2005 SCC 54, the Minister argues that the interpretation of section 231.1 must use a textual, contextual and purposive approach to find a meaning that is harmonious with the ITA. Where the words of the section are precise and unequivocal, the ordinary meaning of the words must play a dominant role in the interpretive process.

[24] The Minister points out that the Canadian system of income tax is based on self-assessment. The Minister then is required to assess a taxpayer's income tax return and determine whether the taxpayer's self-assessment is accurate or whether it needs adjusting. This adjustment must be done within a limited period of time.

[25] The Minister argued that in order for the Minister to perform her statutory duty, Parliament granted her broad powers under subsection 231.1(1) to inspect, audit or examine information and documents of a taxpayer under audit. Furthermore, that the taxpayer and any other person on the premises must answer all proper questions from the Minister (*R v McKinlay Transport Ltd*, [1990] 1 SCR 627 at pp 636 and 648).

[26] The Minister stated that the exercise of these powers ensures that taxpayers pay the correct amount of tax (*eBay Canada Limited v Canada (National Revenue)*, 2008 FCA 141 at para 39; *AGT Ltd v Canada (Attorney General)*, [1996] 3 FCR 505 at para 54).

[27] The Minister submits that paragraphs 231.1(a) and (b) of the ITA should be read in the context of paragraphs (c) and (d). In this context, the Minister is not limited to performing a “desk” audit of a taxpayer but can determine an audit’s form, location and breadth (*Western Minerals Ltd v Minister of National Revenue*, [1962] SCR 592 at p 597). Questions during an audit will not arise solely on the premises of a taxpayer. The Minister’s ability to require answers to all proper questions under paragraph 231.1(1)(d) is supported by her general audit authority in paragraph 231.1(1)(a). The Minister’s position is that a narrowing of this power would unreasonably restrict the Minister’s ability to audit, inspect and examine books, records, and any document for the purpose of administering and enforcing the ITA.

[28] The Minister cites *Tower v MNR*, 2003 FCA 307 [*Tower*] at paragraph 20, in support of her position that she can compel a taxpayer to answer all proper questions. In that decision, the Federal Court of Appeal decided that the Minister was able to compel production of documents and records under paragraph 231.2(1)(b) of the ITA and ask questions to elicit knowledge or facts under paragraph 231.2(1)(a). Since those paragraphs contain much narrower language than paragraphs 231.1(1)(a) and (b), the Minister must be able to specify the form of its audit.

[29] Furthermore, according to the Minister, to exclude oral questioning would result in an absurd interpretation of the ITA. To suggest that paragraph 231.1(1)(a) only grants the Minister

the authority to ask questions of a taxpayer when the auditor attends at the taxpayer's premises or business would breach the rule against absurdity (*Grunwald v Canada*, 2005 FCA 421 at para 18).

[30] The Minister notes that in previous interviews, the interviewees were not provided the questions prior to the interview. They are therefore not prepared to provide questions in writing and have them answered in writing as it is less effective and efficient.

B. *Cameco's Position*

[31] Cameco, in refusing to grant the interviews though agreeing with paragraphs 41, 42, 44, 45, 46, 54 and 56 of the Minister's Memorandum of Fact and Law and generally that the Minister's powers are broad, disagrees that the powers are unlimited.

[32] Cameco's position is that the Minister's interpretation of subsection 231.1(1) of the ITA is not harmonious with the context of the provision in relation to self-assessment, objection and appeal provisions and that the interpretation violates the principles of statutory interpretation.

[33] Cameco's submissions included that the application is not proportional, is vague, overbroad and prejudicial to other matters currently before the Tax Court of Canada.

V. Analysis

[34] While I agree with the general interpretation of the law as presented by the Minister, when it is applied to the unique facts before me, those arguments must fail. I agree with Cameco that the Minister's audit powers are broad but not unlimited.

[35] I acknowledge that the courts have held that the Minister's ability to require "any information" is not limited to existing taxpayer documents (ITA subsection 231.2(1)). Rather, the wording of this provision can require a taxpayer to respond to a questionnaire (*Tower*). As a result, Cameco's interpretation of subsection 231.1(1) does not limit the information available to the Minister.

[36] *Tower* involved an audit of two non-resident Canadians. The Minister issued two "requirements to provide information" [the requirements] pursuant to subsection 231.2(1) of the ITA that required the taxpayers' accountant to answer written questions and produce documents. The taxpayer judicially reviewed the validity of the requirements. The Federal Court of Appeal, at paragraphs 19 and 20, said that subsection 231.2(1) enabled the Minister to compel production of documents and records, and elicit knowledge from the accountant.

[37] As was the case in *Tower*, where the accountant was required to answer written questions, in the present case, Cameco has agreed to respond to written questions. Unlike *Tower*, however, where the requirements were for one entity – the accounting firm and specifically from one accountant in the Calgary branch and one in the Kelowna branch, in the present case the

Application before me involves 25 individuals to be available for oral interviews. Moreover, a requirement under subsection 231.2(1) of the ITA has not been sought from Cameco.

[38] I find that written questions would provide the Minister with the information sought and would be in line with what the Federal Court of Appeal held in *Tower*.

[39] A compliance order (section 231.7 (1)) can only be issued if the Minister proves that Cameco did not comply with section 231.1 of the ITA. Cameco has provided the Minister with every opportunity to inspect, audit and examine their books, records and documents and to inspect their property. The Minister confirmed that Cameco has allowed such access, save the requested oral interviews. Cameco has not allowed the oral interviews that they had done in previous years given the numbers requested and the fact that the subject matter of the audit is similar, if not identical as the ongoing litigation before the Tax Court of Canada.

[40] Chief Justice Noël, writing for the Federal Court of Appeal in *BP Canada Energy Company v Canada (National Revenue)*, 2017 FCA 61 [BP], agreed that the Minister is not vested with unlimited audit powers. The issue in *BP* was a request by the Minister for production of tax accruing working papers [TAWPs]. Chief Justice Noël found at paragraph 80 that when subsection 231.1(1) of the ITA is interpreted, it does not make the TAWPs compellable without restriction as it was "...clear that Parliament intended that the broad power set out in subsection 231.1 (1) be used with restraint when dealing with TAWPs..." He went on to explain that the context of subsection 231.1(1) "is the notion of self-assessment which is at the root of the compliance system put in place under the Act. The system is one of self-assessment because the

person who generates income is best positioned to identify compute and report the amounts that are subject to tax under the Act.” However, he then concluded that this self-assessment does not “require taxpayers to tax themselves on amounts which they believe not to be taxable” (*BP* at paras 81 and 82). He held that in conducting audits the Minister is to be provided with “all reasonable assistance” in performing their audits (paragraph 231.1(1)(d) of the ITA), and that they cannot compel taxpayers to reveal their “soft spots” (*BP* at para 82). In the context of obligations on publically traded corporations under provincial securities legislation that “Parliament could not have intended to vest the Minister with a power so sweeping that it would undermine those obligations” (*BP* at para 86). Chief Justice Noël found that the Minister cannot use subsection “231.1(1) for the purpose of obtaining general and unrestricted access to those parts of BP Canada’s tax reserve papers which reveal its uncertain tax positions” (*BP* at para 99).

[41] I acknowledge the difference between access to TAWPs and a right to orally interview a large number of employees. However, the Minister puts forward here a wide interpretation of an already powerful tool similar to that suggested in *BP*. Chief Justice Noël did not find in *BP* that the section was so wide as to compel a taxpayer to show its “soft spots” when being audited. In this case I find that subsection 231.1(1) of the ITA is not so wide as to compel an indeterminate number of people for oral interviews.

[42] I find that paragraph 231.1(1)(d) of the ITA does not provide the Minister with an unlimited right to conduct oral interviews of Cameco employees. To do so would ignore the mid-ambly of the section which expressly restricts assistance for the purposes of allowing the Minister to “inspect, audit or examine” the books, records, documents and property of Cameco.

In order to avoid redundancy, the Court must attribute a meaning and function to the words “and for those purposes” over and above what is expressed in the balance of the provision. Those purposes are the inspection, audit or examination of books, records, documents or property. The Minister’s argument that “inspect, audit and examine” in paragraph 231.1(1)(a) necessarily includes the authority to ask questions of a taxpayer would render paragraph 231.1(1)(d) redundant. If the Minister were correct, there would be no need for a provision like paragraph 231.1(1)(d). The presumption against tautology militates against this interpretation (*Placer Dome Canada Ltd v Ontario (Minister of Finance)*, 2006 SCC 20 at paras 45 and 46).

[43] Parliament could not have intended for there to be no restraint on how the Minister questions employees of a corporation. The unique and compelling facts of this case include: a) the same issue (transfer pricing) spanning numerous years; b) Cameco coming to court with clean hands having complied with all requests including a number of oral interviews in previous years; c) the number of interviews proposed and the compromise position that Cameco presented; d) the Tax Court of Canada currently hearing the transfer pricing case for other years (which is discussed further below).

[44] The Minister’s interpretation imposes a much broader form of examination for discovery than allowed before the Tax Court of Canada without any of the procedural safeguards. The Minister arrived at a different answer than Cameco regarding transfer pricing and it is the role of the Tax Court of Canada to sort out who is correct.

[45] When the first audits were performed, Cameco agreed to have its personnel interviewed orally by a CRA official. Those interviews were not recorded, though Cameco lawyers were allowed to be present during the interviews. Both the CRA and Cameco personnel took notes of the interviews. When the matters for those years proceeded to the Tax Court of Canada and Notices to Admit were served, it was found that the two parties had very different recollections of what was said at the oral interviews.

[46] Counsel for the Minister indicated they would be prepared to have a court reporter or other formalization of the interviews that would give comfort to Cameco so that the same problem did not arise as it had in the taxation years currently before the Tax Court of Canada.

[47] If I order the interviews to take place with a court reporter and legal counsel present as well as other procedural fairness indicia, then I have replicated what occurs at an examination for discovery in a Tax Court of Canada proceeding. However, instead of Cameco choosing their own proper officers for examination, if I were granting the application I would have allowed the Minister to pick 25 or more personnel to speak for Cameco. I cannot do it as it would disregard the *Tax Court of Canada Rules* and possibly prejudice the proceedings currently before the Tax Court of Canada, with subsequent tax years in the pipeline to be heard, by enabling the Minister to bolster evidence (if necessary) for subsequent trials regarding other audited years.

[48] The Tax Court of Canada has rules of procedure that provide for oral discovery (for example, sections 92 to 100 of the *Tax Court of Canada Rules (General Procedure)*, SOR 90-688a [the Rules]). Some of the safeguards provided in the Rules include that the taxpayer may

choose its representative to be examined (subsection 93(2)), there are rules to the scope of examination (section 95), there are consequences to refusing a question (section 96) and specific use can be made of the examination (section 100).

[49] If the Minister's position is accepted, the CRA can compel oral interviews from as many persons as they see fit without any procedural limits. Oral interviews as sought on these facts at the audit stage would undermine procedural safeguards provided at the appeal stage.

Furthermore, the Minister could use an isolated statement by an employee which the taxpayer would be forced to disprove at trial.

[50] The order the Minister seeks does not meet the principle of proportionality. The related litigation before the Tax Court of Canada will likely resolve most of the issues that would form the basis of the requested interviews. The time and cost involved in allowing the Minister to interview more than 25 Cameco personnel scattered across the world is not proportional to the information being sought since the Tax Court of Canada will determine the issues that are the focus of the requested interviews.

[51] Cameco presented arguments that the Minister's requested order is overbroad, vague and a way to get around the ITA's sections regarding foreign based information, and finally the application is partially moot. As I have already found that the application will not be granted, I will not opine on these arguments.

VI. Costs

[52] The Applicant seeks a lump sum of costs in the amount of \$9,000.00 which includes counsel costs of \$7,000.00 and disbursements of \$2,000.00 (Tariff B column IV). The Respondent seeks lump sum costs in the amount of \$20,000.00 (inclusive of HST) plus reasonable disbursements to be agreed upon by the parties.

[53] Costs will be awarded to the Respondent as a lump sum in the amount of \$10,000.00 plus disbursements in the amount no greater than \$5,000.00. The disbursements can be determined by the parties but cannot exceed \$5,000.00 and are payable forthwith.

JUDGMENT in T-856-15

THIS COURT'S JUDGMENT is that:

1. The Application is dismissed;
2. Costs are awarded to the Respondent payable forthwith by the Applicant in the amount of \$10,000.00 plus disbursements in the amount no greater than \$5,000.00.

“Glennys L. McVeigh”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-856-15

STYLE OF CAUSE: MINISTER OF NATIONAL REVENUE v
CAMECO CORPORATION

PLACE OF HEARING: SASKATOON, SASKATCHEWAN

DATE OF HEARING: APRIL 18, 2017

JUDGMENT AND REASONS MCVEIGH J.

DATED: AUGUST 10, 2017

APPEARANCES:

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FOR THE RESPONDENT

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