

terminal attachment (or "interconnect") equipment in various offshore markets. In view of the relative openness of the Canadian and US markets for this type of equipment, liberalization measures in other markets are being encouraged.

Export controls

Canada continued to play an active part in the Co-ordinating Committee for Strategic Trade Controls (COCOM). The Committee, made up of NATO countries and Japan, maintains multilateral controls on the shipment of strategic military-related goods and technology to proscribed destinations. During the year, a major review was concluded as part of the triennial review process. COCOM will, from 1985, embark on a continuous review which will keep the list of embargoed goods more up-to-date with current technology. COCOM also devoted close attention to the exchange of information and greater co-operation on the enforcement of national controls.

Extraterritoriality

During 1984, Canada viewed with continuing concern unilateral actions by foreign countries, particularly the United States, that threatened to displace Canada's authority over its own territory or placed Canadians in the position of having to choose between conflicting sovereign requirements.

Canada continued to seek practical accommodations on particular issues, both through bilateral consultations with the United States and through multilateral discussions at the OECD. Pursuant to the Memorandum of Understanding on Antitrust Matters, Canada and the US continued to pursue their efforts to enhance co-operation in the antitrust field in a manner that respects the sovereign interests of both sides.

The question of the appropriate limits upon a foreign court's powers to compel the discovery of documents located abroad remained at issue in a case before the US courts involving the Bank of Nova Scotia. During the year, the government of Canada filed *amicus curiae* briefs in the Florida District Court, the Eleventh Circuit Court of Appeals and the United States Supreme Court, expressing concern that the Bank would be subject to severe sanctions in the United States for

failure to produce subpoenaed information, while also being subject to severe sanctions in certain Caribbean jurisdictions if it did produce the documents. Agreement was reached with the United States to form a "subpoena working group", comprising officials of both countries, to monitor US subpoenas directed against Canadian corporations for the production of documents from third countries, and to explore alternative, co-operative methods that might be available to obtain such information. Canada and the United States made substantial progress towards more lasting solutions to the problem through the signing of the Treaty on Mutual Assistance in Criminal Matters at the Quebec Summit on March 18, 1985, and through their respective negotiations on similar agreements with other countries concerned.

Major progress towards the development of co-operative solutions to problems of extraterritoriality was achieved at the OECD. At the May 1984 ministerial meeting, ministers specifically endorsed a section of the report by the Committee on International Investment and Multinational Enterprises on the 1984 review of the OECD 1976 Declaration and Guidelines on International Investment and Multinational Enterprises. This section sets out a series of "general considerations" and "practical approaches" to avoid or minimize conflicts that might be caused by "conflicting requirements" being placed on multinational enterprises.

Canada's diplomatic efforts to achieve co-operative solutions to extraterritorial issues were accompanied by further steps to ensure that the Canadian government would be in a position to respond effectively to foreign intrusions on Canadian jurisdiction. The Foreign Extraterritorial Measures Act was passed in December 1984. This legislation authorizes the Attorney General to prohibit compliance with extraterritorial measures taken by foreign governments, to prohibit the provision of evidence to foreign tribunals that purport to exercise extraterritorial jurisdiction and to prevent the recognition or enforcement of foreign antitrust judgments with extraterritorial scope. Where an order blocking a foreign antitrust judgment has been made, the legislation also provides for the recovery of any damages paid abroad.