

Canadian Export Control Law and Policy

A. General

The following outlines the policy and procedures governing export permits for military, nuclear and strategic goods and technology. This information supersedes *Notice to Exporters*, Serial No. 67 of July 1, 1993 entitled *Canadian Export Control Law and Policy: Requirements for Obtaining Export Permits*.

1. Background

The Minister of Foreign Affairs is designated by the Governor-in-Council as the Minister responsible for the Act, including the issuance of export permits. The Export and Import Permits Bureau of the Department of Foreign Affairs and International Trade is responsible for administration of the Act.

2. The Area Control List (ACL)

Permits are required for all exports to countries on the ACL, regardless of whether the goods or technologies are listed on the Export Control List.

3. The Export Control List

- a. Goods and technologies may be placed on the ECL to fulfil domestic supply commitments or international economic and trade related arrangements.
- b. In a number of cases goods and technologies are placed on the ECL to fulfil international commitments regarding the proliferation of weapons of mass destruction and to deny potential adversaries access to military goods and industrial goods which may have a military or strategic application.
- c. Goods and technologies which are subject to Canadian export controls and that require a permit are classified into eight (8) Groups in this Guide.

4. Automatic Firearms Country Control List (AFCCCL)

- a. Automatic firearms may be exported only to countries with which Canada has intergovernmental defence, research, development and production arrangements. Those countries are listed on the AFCCCL.
- b. The AFCCCL is as follows:
 - Australia
 - Belgium
 - Denmark
 - France
 - Germany
 - Italy
 - Netherlands
 - Norway
 - Saudi Arabia
 - Spain
 - Sweden
 - United Kingdom
 - United States
- c. Export permits are required for exports of automatic firearms as defined in ECL Item 5500 and the Criminal Code. Permits will not be issued for the export of automatic firearms to any country not listed on the AFCCCL.

B. Export Permits

1. Introduction

- a. Export permits are required when the destination is a country on the ACL or when the goods are on the ECL.
- b. There are two types of export permits: an Individual Export Permit (IEP) and General Export Permit (GEP).

2. Individual Export Permits (IEP)

- a. An Individual Export Permit (IEP) must be obtained in order to export any goods to ACL countries unless an exemption is granted to an IEP under a particular GEP. As well, an IEP is required for goods on the ECL to all countries unless otherwise indicated. (In most cases, ECL goods to the U.S. do not require export permits).

- b. To apply for an export permit fill out an "Application for Permit to Export Goods" (EXT 1042). Specific instructions on how to complete the application form are contained on the last page of this "Guide".
- c. In 1993 the export permit application was revised and re-issued under "EXT 1042 (09/93)". A copy of the revised form is reproduced on the inside of the back cover. Permit application forms that pre-date the 1993 revision may still be used.

3. General Export Permits (GEP)

- a. General Export Permits (GEP) were introduced to minimize the administrative burden of export controls on exporters and to streamline export licensing procedures. General Export Permits are listed in sub-section I.
- b. It is important to remember that:
 - i. for less sensitive goods, a GEP is a means of reducing the burden of controls on exporters by effectively removing the need to apply for an individual export permit;
 - ii. a GEP is available for use by any Canadian resident;
 - iii. a GEP is a valid export permit and the conditions attached to its use are legally enforceable; **and**
 - iv. no prior authorization is required from the Minister to use a GEP.
- c. Exporters should ensure that the goods to be shipped qualify for a GEP and that the conditions for the use of a GEP are fulfilled.

C. Policy Guidelines

1. General

The Minister of Foreign Affairs is responsible for the implementation of the *Export and Import Permits Act*. The Export Controls Division, Export and Import Permits Bureau administers, on behalf of the Minister, Canadian policies and procedures related to controls on specific goods and technologies. There are established guidelines, procedures and policies with respect to exports of strategic and military goods.

2. Strategic Goods

Groups 1, 3, 4, 6 and 7 of the Export Control List cover strategic goods and technologies. Groups 4 and 7 of the ECL also cover dual-use materials, equipment and components which could contribute to uncontrolled chemical, biological and nuclear weapons proliferation. Generally, exports of strategic civilian goods are considered favourably except where there is a risk of diversion of these goods to an unacceptable use as determined by international agreements or arrangements. An application may be denied where there is a risk of proliferation of nuclear weapons (Group 4), missile systems (Group 6) or chemical/biological weapons (Group 7) to any country.

3. Military Goods

With respect to military goods, (ECL Group 2 and ECL Item 5500) Canadian export control policy has, for many years, been restrictive. Under present policy guidelines set out by Cabinet in 1986, Canada closely controls the export of military goods and technology to:

- i. countries which pose a threat to Canada and its allies;
- ii. countries involved in or under imminent threat of hostilities;
- iii. countries under United Nations Security Council sanctions; or
- iv. countries whose governments have a persistent record of serious violations of the human rights of their citizens, unless it can be demonstrated that there is no reasonable risk that the goods might be used against the civilian population.

4. Policy Assessments

After the technical assessment is completed, a permit officer will review the application. The officer will take into consideration the type of goods exported, the importing country and the intended use of the product. A thorough examination of the relevant foreign policy and security concerns relating to the proposed export is also undertaken.

5. Consultations

- a. The purpose of intra/interdepartmental consultations is to fully assess the risk of unauthorized diversions, trans-shipments or possible misuse of products for export. Consultations may be carried out at the national, bilateral or multilateral levels.
- b. Various Canadian Government Departments, Agencies or Boards may be involved in the export control process. These may include the Departments of National Defence, Communications, Industry, and Revenue Canada (Customs and Excise); the Atomic Energy Control Board; the Communications Security Establishment; the Canadian Security Intelligence Service; the Royal Canadian Mounted Police (R.C.M.P.); and, various Divisions within the Department of Foreign Affairs and International Trade.