

Revenue Canada Customs & Excise had in place an enhanced enforcement program which targeted exports of high-technology products. The RCMP is also involved in investigations of violations of the Act and has devoted more resources to this area. The result of this activity has been a more than doubling in the number of export permit applications dealt with by the Export Controls Division by March 31, 1986.

Extraterritoriality

Canada continues to view with concern the extraterritorial application of foreign law, particularly US law, that has the effect of displacing Canada's sovereignty over its own territory or to place Canadians in the position of having to choose between conflicting sovereign commands.

During 1985, Canada sought practical accommodations on particular issues of extraterritoriality, both through bilateral consultations with the United States and other countries, and through multilateral discussions at the OECD. The Memorandum of Understanding on Anti-trust Matters between Canada and the United States provided an effective bilateral framework for continuing consultations and collaboration in the anti-trust field. The "Subpoena Working Group," comprising officials of both countries, continued 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 made substantial progress in the negotiations of treaties on Mutual Legal Assistance in Criminal Matters with the Bahamas and other countries. Such treaties, which would complement a similar agreement signed with the United States in March 1985, will enable the countries concerned to assist one another in the investigation, prosecution and suppres-

sion of crime and reduce the potential for resort to unilateral and extraterritorial measures to obtain evidence in the jurisdiction of the other parties. Pursuant to the terms of the Quebec Summit Security Declaration of March 1985, Canada and the United States reached agreement on Joint Terms of Reference, to take effect June 6, 1986, to control access to unclassified but militarily critical technologies in a manner that respects the sovereign interests of both countries.

These co-operative efforts were accompanied by steps to ensure respect for governing principles of international law respecting Canadian jurisdiction. On June 15, 1985, Canada joined with the United Kingdom and Australia in filing an *amicus curiae* brief before the US Supreme Court in the antitrust case of *Zenith Corp. v. Matsushita, et al.*, arguing that as a matter of international law, the compulsory nature of directives issued by a government and effective in its territory should be respected by the courts of another jurisdiction consistent with the principle of sovereign equality of states, reflected in the US "act of state" doctrine.

The Government of Canada retained legal counsel in the United States in 1985 to prepare an *amicus curiae* brief in the case of *Alcan Aluminium Ltd. v. Franchise Tax Board of California* to emphasize the objectionable application of the unitary tax system to foreign firms operating in California. Canada argued, *inter alia*, that the unitary method of taxation departs from generally accepted international standards for determining the geographic source of income for taxation purposes (i.e. the arm's-length method), thus increasing the risk of double taxation, and that this method intrudes on the Canadian government's sovereign right to develop its own policies for foreign and domestic investment. Canada was one of 16 countries taking issue with the California unitary tax system.