

Act and the Criminal Code, thereby allowing the export of automatic firearms.⁵

In 1976, Parliament modified the *Criminal Code* by declaring illegal the possession, sale and transfer of automatic weapons in Canada (with the exception of weapons needed by the police and military). Since possession was banned by this change, the export of such goods became illegal.⁶ Afterwards, some Canadian arms exporters long complained of discrimination against them by the government. The government response to their complaints was to pass legislation in June 1991 amending the regulations governing the sale of automatic weapons.

The new Act (Bill C-6) amended Section 4 of the *Export and Import Permits Act* to authorize the Governor in Council to establish an Automatic Firearms Country Control List. It also amended the *Criminal Code* by legalizing the possession and transfer of automatic firearms in the context of commercial activities, so long as they are declared to the government and authorized by it. The amendments to the *Criminal Code* constitute the essence of the new legislation. The amendments to the *Export and Import Permits Act* were not necessary, and the export of automatic firearms could have been regulated through the Export Control List, as is the case for other arms transfers. The Automatic Firearms Country Control List was added to reassure the opposition and the public about the government's commitment to arms export limitations.

PRINCIPAL RESTRICTIONS ON CANADIAN STRATEGIC EXPORTS AT THE PRESENT TIME

The Export Control List

This list includes all products and destinations for which an export permit from the Department of External Affairs is required.⁷ The following describes the list as it stands in 1991; it will be amended in early 1992.

The export restrictions of the ECL apply in particular to countries deemed by COCOM as threats to Western security. These countries are Albania, Bulgaria, the People's Republic of China, North Korea, Hungary, Mongolia, Poland, Romania, Czechoslovakia, the Soviet Union and Vietnam.

The list is divided into five groups of strategic items. Group 1 comprises dual-use goods and technology, from data processing equipment to aeronautics, and including machine tools and alloys. Group 2 covers goods specially designed or modified for military purposes, particularly weapons. Group 3 includes atomic materials and equipment, from uranium to nuclear power stations. Group 4 is general in nature,

covering technology and confidential information used to produce items found in other groups. Group 5 contains items for which permits are required: (a) for strictly economic reasons; (b) to safeguard national security; or, (c) to fulfil international obligations other than those resulting from membership in COCOM (for example, chemical products used to manufacture combat gas, whose sale is regulated by the "Australia Group").

There are four levels of controls for Canadian exports. The "General Exception" level covers top secret technology for which an export licence application requires a thorough examination. "Administrative Exception" controls apply to the least strategic articles. "Favourable Consideration" level and "China Administrative Exception" apply to goods of medium strategic value. The latter category was adopted in the 1980s to distinguish China from other communist countries. It was thought that China represented a lesser danger in view of its rivalry with the USSR and its opening-up to the West. However, since the events of Tiananmen Square in 1989, Canada has not extended the favourable exemptions allowed to China.

Canadian exporters are required to provide information on the nature and destination of goods by completing the appropriate questionnaire. They must also obtain supporting documents from their customers proving that the exports reached their proper destination and that they will not be diverted to prohibited destinations. Canada and other members of COCOM provide "International Import Certificates" and "Delivery Verification Certificates" for goods covered by the General Exception and Favourable Consideration categories. Such documents are not generally required for Administrative Exception goods. In the case of countries not participating in the system developed by COCOM, Canada requires "Import Licences" and "End-Use Statements."

All items in Groups 1 and 2 of the ECL, and some of the nuclear items in Group 3, are from COCOM. The COCOM lists containing dual-use items, ammunition and nuclear products have been regularly updated over the last forty years. From September 1990 to May 1991, a major reform took place as the parties to COCOM decided to remove some of the items on the list of dual-use technology and to retain a "hard core" of advanced technology in the following areas: data processing, communications, electronics, aeronautics, biotechnology, underwater technology, machine tools and industrial materials. The list will now be renegotiated every two years. In the case of ammunition and nuclear items, review of the COCOM lists will begin next fall, but no major changes are expected. The ECL had already been revised in 1989, and is currently under revision again to take into account the recent COCOM changes.