

J. What Is Canada's Legislative And Policy Basis For Export Controls?

1. General

The Minister of Foreign Affairs is responsible for the administration of the *Export and Import Permits Act* (EIPA). The Export Controls Division, Export and Import Controls Bureau administers, on behalf of the Minister, Canadian policies and procedures related to controlled goods and technologies. The Export Controls Division also cooperates with other Government Departments and Agencies which administer policies and procedures, and exercise separate licensing responsibilities, related to the export of controlled goods and technologies pursuant to other relevant legislation. Generally speaking, there are established guidelines, procedures, and policies with respect to exports of strategic and military goods.

2. Strategic Goods

Groups 1, 3, 6 and 7 of the Export Control List cover strategic goods and technologies. Groups 4, 6 and 7 of the ECL also cover dual-use materials, equipment and components which could contribute to chemical, biological and nuclear weapons proliferation, and their delivery systems. Generally, exports of strategic civilian goods are considered favourably with some exceptions. For example, an export permit application may be denied where there is a risk of diversion of these goods to an unacceptable use or destination as determined by international agreements, commitments or arrangements. An export application may be denied where there is a risk of proliferation of nuclear weapons (Groups 3 and 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, the application is further reviewed by taking 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 is undertaken.

5. Consultations

- a. The purpose of intra/interdepartmental consultations is to fully assess the risk related to proposed exports. 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, Industry Canada 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; and various Divisions within the Department of Foreign Affairs and International Trade.