

- persons active in economic sectors (agriculture, banking, transportation, etc.) who will be otherwise affected. Some may be able to sell their goods or services elsewhere — others may not;
  - adversely affected persons who are Canadian residents, Canadian citizens or companies incorporated in Canada, and those who are not, given that the law imposes obligations only on Canadian residents, citizens and corporations.
- b) the opportunity these people have to avoid or mitigate the injury (e.g. through insurance). The Export Development Corporation allows exporters to insure themselves against the risk of export permit cancellation and the imposition of new export restraints, while importers cannot obtain insurance. The potential losses to the EDC and to other bodies which may be forced to compensate companies they have insured against political risk must also be considered in any assessment of the economic impact on Canada.

The Secretary of State for External Affairs must presumably consult the other ministers when drafting recommendations, so as to assess the economic consequences that imposing economic sanctions may have for Canada. This does not appear to entail any obligation for the government to pay compensation, but does allow for the possibility of compensation, depending on circumstances.

There are arguments for and against the use of public funds to provide compensation. It would appear to be difficult if not impossible to establish unvarying criteria to determine the payment of compensation in all cases of sanctions imposed by the Canadian government. A flexible approach which does not bind the government but allows it to examine each request for compensation would therefore appear advisable. There may not be time to analyze the appropriateness or the cost of providing compensation before sanctions are imposed. Acting under the state's prerogative to make ex gratia payment is probably the best course of action, if the affected persons can easily take advantage of it.

Under the provisions of the SEMA, a minister (it is not specified which one) may be charged with receiving and assessing applications for compensation from Canadian citizens, companies incorporated in Canada, and other persons in Canada who suffer injury following the application of sanctions pursuant to legislation, and with making recommendations on such applications. This provision does not necessarily create a right to compensation; any payment made would apparently be on an ex gratia basis.