

CA1
EA
R27
1984
c.1

DOCS

NON - CIRCULATING /
CONSULTEUR SUR PLACE

Dept. of External Affairs
Min. des Affaires extérieures
OTTAWA

MAY 20 1984

RETURN TO DEPARTMENTAL LIBRARY
RETOURNER A LA BIBLIOTHEQUE DU MINISTRE

REPORT OF THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS

respecting operations under the

EXPORT AND IMPORT PERMITS ACT

for the year 1984

This Report is submitted pursuant to Section 26 of the Export and Import Permits Act (hereinafter referred to as the Act), Chapter E-17 of the 1970 Revised Statutes of Canada, as amended, which provides:

"26. As soon as practicable after the 31st day of December of each year the Minister shall prepare and lay before Parliament a report of the operations under this Act for that year."

INTRODUCTION

The authority to control the import and export of commodities and technologies is derived from the Act. The Act finds its origin in the War Measures Act and was passed as a Statutory Act of Parliament in 1947 and subsequently amended on a number of occasions.

In terms of its organization, the Act provides that the Governor in Council may establish a series of lists known as the Import Control List (ICL), the Export Control List (ECL) and the Area Control List (ACL). For each one of these lists the Act sets out criteria that govern the inclusion of goods or countries on the respective lists and provides that the Governor in Council may revoke, amend, vary or re-establish any of the lists. Control over the flow of goods contained on these lists or to specific destinations is effected through the issuance of import or export permits.

The Act delegates to the Secretary of State for External Affairs the authority to grant or deny requests for these permits and thus confers on him broad powers to control the flow of the goods contained on these lists. The operations carried out under the Act can be grouped under the following headings:

1. Import Controls
 - (a) Agricultural Products
 - (b) Textiles and Clothing
 - (c) Footwear
 - (d) Endangered Species

2. Export Controls

3. Violations

1. Import Controls

Section 5 of the Act provides that the Governor in Council may establish a list of goods, called an Import Control List (ICL) whose importation he deems it necessary to control for any of the following purposes:

- to ensure adequate supply and distribution of an article that is scarce on world markets or is subject to control in the country of export;
- to implement any action taken under the Farm Products Marketing Agencies Act;
- to support any action taken under the Meat Import Act;
- to implement any action taken under a number of named Acts; e.g., the Agricultural Stabilization Act, the Fisheries Prices Support Act, the Canadian Dairy Commission Act, to support the price of the article;
- to implement an intergovernmental arrangement or commitment;
- to limit, pursuant to an enquiry by the Textile and Clothing Board or the Canadian Import Tribunal (formerly the Anti-dumping Tribunal), the importation of goods causing or threatening to cause serious injury to domestic producers.

(a) Agriculture

The following agricultural products were contained on the ICL in 1984 and subject to control for the following reasons:

- i) to restrict for the purpose of supporting any action under the Farm Products Marketing Act, the importation in any form of a like article to one produced in Canada, the quantities of which are fixed or determined under that Act:
 - Turkey, turkey parts and products manufactured wholly thereof;
 - Eggs and egg products;
 - Chicken and chicken capons, live or eviscerated, chicken parts whether breaded or battered;

- ii) to implement any action taken under the Agricultural Stabilization Act, the Fisheries Prices Support Act, the Agricultural Products Co-operative Marketing Act, or the Canadian Dairy Commission Act, to support the price of the article or that has the effect of supporting the price of the article:
 - Animal feeds containing more than 50% non-fat milk solids (Canadian Dairy Commission Act);
 - Butter (Canadian Dairy Commission Act);
 - Butter fat in any form either alone or in combination with other substances (Agricultural Stabilization Act);
 - Cheese of all types other than imitation cheese (Agricultural Stabilization Act);
 - Dry buttermilk (Canadian Dairy Commission Act);
 - Dry casein and caseinates (Agricultural Stabilization Act);
 - Dry skimmed milk (Agricultural Stabilization Act);

- Dry whey (Canadian Dairy Commission Act);
- Dry whole milk (Canadian Dairy Commission Act);
- Evaporated and condensed milk (Canadian Dairy Commission Act); and

iii) to implement an intergovernmental arrangement or commitment:

- Coffee in any form (International Coffee Agreement);
- Sugar, in any of its recognized commercial forms, derived from sugar cane or sugar beet ... (International Sugar Agreement);
- Endangered Species (Convention on International Trade in Endangered Species);
- Raccoon Dogs (Bilateral Arrangement with the U.S.A.).

As regards agricultural products, the following amendments and/or additions were made to the ICL during 1984:

Eggs

Eggs were placed on the ICL on May 9, 1974, under the authority of Section 5(a.1) of the Act. The global shell egg import quota for 1984 was 212 355 boxes of 15 dozen, representing 0.675% of the previous year's domestic production. The quotas for egg powder, and liquid or frozen eggs, were 438 807 kg and 1 184 421 kg respectively.

Chicken

Chicken was placed on the ICL on January 15, 1979 under Order in Council P.C. 1979-13 to support action taken under the Farm Products Marketing Agencies Act. The global import quota for 1984 was 24 896 529 kg expressed as eviscerated weight.

The quota level is set at 6.3% of the previous year's domestic production. While the quota is finite, provision is made to issue import permits for chicken supplementary to the quota to meet overall Canadian market needs.

Turkey

Turkey was placed on the ICL by Order in Council P.C. 1974-1086 of May 8, 1974 under the provisions of Section 5(a.1) of the Act. The global import quota for 1984 was 1 932 320 kg eviscerated equivalent. The quota is set annually at the equivalent of 2% of domestic production. While the quota is finite, provision is made for the issuance of import permits for turkey supplementary to the quota to meet overall Canadian market needs.

Beef and Veal:

Item 20 (Beef and Veal) was removed from the ICL effective January 12, 1984 by Order in Council P.C. 1984-96 of January 11, 1984.

Subsequently on December 21, 1984 Item 20 was reinstated by Order in Council P.C. 1984-4148 to restrict, under the provisions of the Meat Import Act, beef and veal imported into Canada during 1985. Import quotas were set for individual countries: Australia 24 900 t (metric tonnes) EEC 2 700 t, New Zealand 28 800 t, Nicaragua 300 t and U.S.A. 9 800 t.

Coffee

Coffee was placed on the ICL on October 1, 1976 to give effect to Canada's obligations as a member of the International Coffee Agreement. The controls are used to ensure that shipments are accompanied by the required certificates of the International Coffee Organization (ICO) (these are used to

provide statistical data on the movement of the commodity), and to ensure that imports of coffee from countries not members of the ICO do not exceed the import quota which is assigned to Canada by the ICO for non-member coffee. For the coffee year starting October 1, 1983 to September 30, 1984, the non-member quota was 108 300 kg of green coffee.

Sugar

The International Sugar Agreement of 1977 expired on December 31, 1984. Sugar was placed on the ICL on April 17, 1978 to give effect to Canada's obligations as a member of the International Sugar Organization (ISO). The controls were used to ensure that shipments of sugar imported into Canada were accompanied by the required Certificates of Contribution of the ISO (these were used to provide statistical data on the movement of the commodity, as well as to ensure that all imports of sugar had been subjected to payment of contribution to the ISO's Sugar Stock Financing Fund). The import quota for non-member sugar assigned to Canada by the ISO amounted to 90 tonnes for the calendar year 1984.

Cheese

Under the authority of Section 5(1) of the Act, "Cheese of all types other than imitation cheese" was placed on the ICL for the implementation of an action taken under the Agricultural Stabilization Act to support the price of cheese of all types except imitations.

The annual global cheese import quota for the year 1984 amounted to 45 000 000 lbs or 20 411 866 kg which 60% of this quota was allocated to cheese importers from the ten (10) member-states of the EEC. The remaining 40% was allocated to cheese importers from non-EEC sources.

(b) Textiles and Clothing

Canadian trade policy for the textile and clothing sectors reflects Canada's participation in the Multi-Fibre Arrangement (MFA). The MFA is negotiated under the General Agreement on Tariffs and Trade (GATT) and provides the international legal framework for the negotiation of bilateral textile and clothing restraint arrangements. On July 12, 1982 Canada formally ratified the Protocol extending the MFA to July 31, 1986.

Consistent with the MFA and in order to allow for a period during which the domestic textile and clothing industry can adjust to international competition, special measures of protection are provided to these sectors through the negotiation of restraint arrangements to limit the exports of specified textile and clothing products from certain developing countries to Canada. Industry restructuring has also been assisted through a 5-year adjustment program administered through the Canadian Industrial Renewal Board (CIRB) with allocated funding of over \$400 million. Under this program, adjustment assistance is provided in order to modernize the industry so as to establish more viable and competitive Canadian textile and clothing firms, to retrain and provide support for workers affected by the adjustment process, and to revitalize the economies of those communities most vulnerable to foreign competition in these sectors.

With regard to special measures of border protection, a broad range of textile and clothing products have been maintained on the ICL for the purpose of implementing the intergovernmental arrangements or commitments negotiated in these sectors. In terms of the domestic legal framework for administration of bilateral restraint arrangements, textile and clothing items are placed on the ICL under the authority of Section 5(c) of the Act.

In 1984, new bilateral restraint arrangements were negotiated with Mauritius and Indonesia, bringing the total number of long-term textile and clothing restraint arrangements to 21, all of which expire on December 31, 1986. Additional products were also added to the existing restraint arrangements in place with Sri Lanka, Malaysia, China, Singapore and Thailand.

(c) Footwear

Following an enquiry by the Anti-dumping Tribunal under Section 16.1 of the Anti-dumping Act, (now repealed and its provisions incorporated in the Special Import Measures Act S.C. 1983-84 c. 25), it was found that imports of footwear were causing or threatening to cause injury to Canadian producers of like goods, the Government announced, effective December 1, 1977, the imposition of a quota on imports of footwear from all sources. The coverage of this global quota excluded rubber and canvas footwear and downhill ski boots, as well as plastic and waterproof footwear. In June 1980, the Government announced the extension of the quota to November 30, 1981 to enable the Anti-dumping Tribunal to carry out an enquiry into the need for continued special measures of protection.

Pursuant to the 1981 report of the Tribunal, the Government, on November 24, 1981, announced the extension for three years of the global quota on imports of non-leather footwear, along with the addition of canvas footwear effective December 1, 1981. Leather footwear, which had been covered by previous footwear quota, was at that time excluded from quota coverage.

On July 9, 1982, the government announced that, effective that date, imports of leather footwear were once again under control, pursuant to the 1981 report of the Anti-dumping Tribunal.

The import quotas on leather and non-leather footwear were in place until November 30, 1984. The restraint levels for leather footwear were set at 3.4 million pairs for July 9, 1982 to November 30, 1982, 11.4 million pairs for December 1, 1982 to November 30, 1983 and 11.7 million pairs for December 1, 1983 to November 30, 1984. For non-leather footwear the revised restraint levels were 34.1 million pairs for December 1, 1981 to November 30, 1982, 35.1 million pairs for December 1, 1982 to November 30, 1983 and 36.2 million pairs for December 1, 1982 to November 30, 1984.

Order in Council P.C. 1982-2081, dated July 9, 1982, added Item 67 (leather footwear) to the ICL. The Order in Council also revoked the previous Item 57 of the ICL and substituted the new description of the non-leather footwear item to reflect the revised restraint levels and the fact that several specialized categories that had been exempt from ICL coverage were brought under surveillance.

Order in Council P.C. 1984-3782, dated November 27, 1984, had the effect of extending the quotas on leather and non-leather footwear for twelve months to November 30, 1985. The restraint levels for the period December 1, 1984 to November 30, 1985 were 12.3 million pairs for leather footwear and 37.7 million pairs for non-leather footwear.

(d) Endangered Species

On January 2, 1974, Canada signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (C.I.T.E.S.). Canada ratified this Convention becoming a party to the International Agreement on April 10, 1975.

Orders in Council P.C. 1984-1541 and P.C. 1984-1542, both dated May 10, 1984, had the effect of adding to the ICL and the ECL, several species which had been agreed by parties to

C.I.T.E.S. in 1983 and adding seven species of snakes, requested by India, to Appendix III so that trade with India in those seven species is covered by the Convention.

Issuance of Import Permits

Section 14 of the Act stipulates that:

"No person shall import or attempt to import any goods included in an Import Control List except under the authority of and in accordance with an import permit issued under this Act."

Section 8 authorizes the Minister to:

"... issue to any resident of Canada applying therefor a permit to import goods included in an Import Control List, in such quantity and of such quality, by such persons, from such places or persons and subject to such other terms and conditions as are described in the permit or in the regulations."

Authority is provided under Section 12 of the Act for regulations prescribing the information and undertakings to be furnished by applicants for permits, procedures to be followed in applying for and issuing permits, and requirements for carrying out the purposes and provisions of the Act.

Section 5 of the Import Permit Regulations (C.R.C., c.605) provides for the issuance of general permits authorizing the import of specified goods up to specified limits or subject to specified conditions.

The following is a statistical summary of applications for import permits processed during 1984.

Import permits issued.....	200,323
Applications refused.....	1,567
Applications cancelled.....	784

All applications for permits required for Appendix I specimens on the ICL were handled by the Canadian Wildlife Service. The following permits were processed in accordance with General Import Permit No. 17 of September 21, 1976:

Applications approved.....	38
Applications refused.....	22
Applications withdrawn.....	1

Twenty-four (24) permit applications for live species and fourteen (14) permit applications for parts or derivatives were approved by the Canadian Wildlife Service during 1984. The majority of the import permits were for live animals for zoos.

Issuance of Certificates

Section 9 of the Act provides that:

"The Minister may, in order to facilitate the importation of goods into Canada and compliance with the laws of the country of export, issue to any resident of Canada applying therefor an import certificate stating that the applicant has undertaken to import the goods described in the certificate within the time specified therein and containing such other information as the regulations require."

Import Certificate Regulations (C.R.C., c.603) provide for the issuance of import certificates which are required by the country of export before it will allow goods to be shipped to Canada. They also provide for the issuance of Delivery-Verification Certificates for goods imported into Canada to comply with the requirements. The purpose of these regulations is to prevent the diversion in transit or the unauthorized trans-shipment of such goods.

The following is a statistical summary of certificates processed during 1984.

Import Certificates issued.....	1,747
Delivery-Verification Certificates issued.....	650

2. Export Controls

Section 3 of the Act provides that the Governor in Council may establish a list of goods, to be called an Export Control List (ECL), including therein any article the export of which he deems it necessary to control for any of the following purposes, namely,

- (a) for national security reasons;
- (b) to promote further processing of natural resources;
- (c) to limit or keep under surveillance the export of any raw or processed material that is produced in Canada in circumstances of surplus and depressed prices that is not a produce of agriculture;
- (d) to implement an intergovernmental arrangement or commitment; or
- (e) to ensure adequate supply and distribution.

Group 1 of the List covers animals and agricultural products. Effective January 11, 1984 Order in Council P.C. 1984-97 amended the ECL by revoking Item 1021, beef and veal.

Subsequently, on February 7, 1984 the Export of Beef and Veal Permit (General Export Permit no. FX.13) dated August 22, 1983 which authorized the exportation of beef and veal for personal use by the exporter and his household up to a limit of 9 kg was cancelled.

Effective February 6, 1984 Item 1041, eggs and egg products (all destinations, including the United States) was added to the ECL by Orders in Council P.C. 1984-340 and P.C. 1984-405 in order to ensure that there is an adequate supply and distribution of such article in Canada. Ministerial Orders, SOR/84-158 and SOR/84-159, created the General Permit Authorizing the Exportation of Eggs (General Export Permit EX.15-Eggs) which authorized the exportation of eggs for personal use by the exporter and his household up to a limit of two dozen and the General Permit Authorizing the Exportation of Egg Products (General Export Permit EX.16-Egg Products) which authorized the exportation of egg products in amounts not in excess of 25 000 kg for each exportation.

Subsequently, effective November 22, 1984 Order in Council P.C. 1984-3726 amended the ECL by revoking Item 1041, eggs and egg products (all destinations, including the United States).

On June 21, 1984 Item 6001, dimethyl methylphosphonate, methylphosphonyl difluoride, phosphorous oscychloride, potassium fluoride and thiodiglycol was added to the ECL by Order in Council P.C. 1984-2134 in order to implement an intergovernmental arrangement with the United States of America.

Issuance of Export Permits

Section 13 of the Act provides that:

"No person shall export or attempt to export any goods included in an Export Control List or any goods to any country included in an Area Control List except under the authority of and in accordance with an export permit issued under this Act."

An export permit is required before an item included in the ECL may be exported from Canada to any destination with the exception, in most cases, of the United States. However, twelve items in the List require permits before they may be exported to any destination including the United States, i.e.: 1001 - pancreas glands of cattle and calves; 1011 - endangered species (Appendix I or II); 2001 - logs of wood (of all species); 2002 - pulpwood (of all species); 5665 - scrap iron and steel; 5667 - Canadian one cent bronze coins; 8001 - source (fertile) and fissionable materials; 8005 - deuterium; 8039 - tritium; 8050 - radio-active materials; 8136 - nuclear reactors; 10011 - serum albumin.

Two additional items on the List require permits before they may be exported to the United States, i.e.: 1031 - sugars, syrups, and molasses, derived from sugar cane or sugar beets; 5664 - specialty steel products.

All goods originating in the United States that are to be re-exported from Canada require an export permit except any such goods that have been further processed or manufactured outside the United States, by combining them with other goods or otherwise so as to result in substantial change in value, form and use of the goods or in the production of new goods, unless the goods to be exported are listed in another Group in this List.

All goods originating outside Canada that are identified in the ECL require an export permit to be re-exported from Canada to any destination with the exception, in most cases, of the United States. Any such goods that are in transit in bond on a through journey and accompanied by a billing or other documentation which clearly indicates the ultimate destination are exempted from the requirements to have an export permit.

Section 7 of the Act provides that:

"The Minister may issue to any resident of Canada applying therefor a permit to export goods included in an Export Control List or to a country included in an Area Control List, in such quantity and of such quality, by such persons, to such places or persons and subject to such other terms and conditions as are described in the permit or in the regulations."

Authority is provided under section 12 of the Act for regulations prescribing the information and undertakings to be furnished by applicants for permits, procedures to be followed in applying for and issuing permits, and requirements for carrying out the purposes and provisions of the Act.

Section 6 of the Export Permit Regulations (C.R.C., c.602) provides for the issuance of general permits authorizing the export of certain named goods to all destinations or to specified destinations.

The Regulations Respecting Trans-shipment (C.R.C., c.606) enable Canada to cooperate in a system agreed upon by a number of countries to prevent the diversion of strategic materials in transit.

The following is a statistical summary of applications for export permits processed during 1984 relating to both the ECL and the ACL:

Export permits issued.....	7,426
Applications refused.....	15
Applications withdrawn.....	347
Export permits cancelled.....	26

In addition, applications for permits required for specimens included in Appendices I, II and III of the ECL were handled by the Canadian Wildlife Service. The following permits were issued in accordance with General Export Permit No. Ex. 14 of September 21, 1976:

Applications approved.....	306
Applications refused.....	3
Applications withdrawn.....	5

3. Violations

Section 19 of the Act provides that:

- (1) Every person who violates any of the provisions of this Act or the regulations is guilty of an offence and is liable
 - (a) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment; or
 - (b) on conviction upon indictment to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding five years or to both fine and imprisonment.

- (2) A prosecution under paragraph (a) of sub-section (1) may be instituted at any time within three years from the time when the subject matter of the complaint arose.

Section 24 of the Act delegates responsibility for the enforcement of the Act to all officers as defined in the Customs Act. There were three hundred ninety-five investigations of suspected violations during 1984, 44 charges were laid resulting in 27 convictions and fines totalling \$111,000.00. Four charges were dropped due to plea bargaining, which resulted in the accused pleading guilty to 8 counts, 2 charges were withdrawn wherein 3 convictions were registered and a stay of proceedings was entered in one case. There were 12 cases where the investigations were terminated due to insufficient evidence. As of December 31, 1984, 18 court cases were pending.

