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## Export and Import Controls

### REPORT OF THE MINISTER OF INTERNATIONAL TRADE

respecting operations under the

### EXPORT AND IMPORT PERMITS ACT

for the year 2003

Export and Import Controls Bureau

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This Report is submitted pursuant to section 27 of the *Export and Import Permits Act* (hereinafter referred to as the Act), Chapter E-19 of the 1985 Revised Statutes of Canada, as amended, which provides:

"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.

The Act provides that the Governor in Council may establish 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 Minister of International Trade the authority to grant or deny applications for these permits and thus confers on him broad powers to control the flow of the goods contained in these lists. The operations carried out under the Act can be grouped under the following headings:

### 1. IMPORT CONTROL:

- a. Textiles and Clothing
- b. Agricultural Products
- c. Steel Products
- d. Weapons and Munitions

### 2. EXPORT CONTROL:

- a. Strategic, military and atomic energy goods, materials and technology as well as items controlled for non-proliferation purposes.
- b. Miscellaneous goods including logs, softwood lumber, cedar bolts and blocks, roe herring, peanut butter, sugar, sugar-containing products and products of US origin.
- c. Any goods to countries listed on the **Area Control List (ACL)**, which in 2003 were Myanmar (Burma).

### 3. OFFENCES:

The Act contains provisions pertaining to offences and penalties therefor. Every person (including a corporation, any of its directors or officers) found contravening any provision of the Act is liable to be prosecuted. A prosecution may be instituted at any time within but not later than three years after the time when the subject matter of the complaint arose.

## REPORT

### 1. IMPORT CONTROL

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 the Governor in Council deems it necessary to control for any of the following purposes:

- to ensure, in accordance with the needs of Canada, the best possible supply and distribution of an article that is scarce in world markets or is subject to governmental controls in the countries of origin or to allocation by intergovernmental arrangement;
- to restrict, for the purpose of supporting any action taken under the *Farm Products Marketing Act*, the importation in any form of a like article to one produced or marketed in Canada the quantities of which are fixed or determined under that Act;

- to restrict the importation into Canada of arms, ammunition, implements or munitions of war, army, naval or air stores, or any articles deemed capable of being converted thereto or made useful in the production thereof;
- to implement any action taken under the *Farm Income Protection Act*, the *Fisheries Prices Support Act*, the *Agricultural Products Cooperative Marketing Act*, the *Agricultural Products Board Act* or the *Canadian Dairy Commission Act*, with the object or effect of supporting the price of the article;
- to implement an inter-governmental arrangement or commitment;
- to limit, pursuant to an enquiry by the Canadian International Trade Tribunal, the importation of goods causing or threatening to cause serious injury to domestic producers;
- to place certain steel products on the Import Control List for the purpose of collecting information on imports of such products; and;
- to facilitate implementation of action taken under the Customs Tariff to enforce Canada's rights under a trade agreement or respond to acts of another country that would adversely affect trade in Canadian goods or services.

#### (a) Textiles and Clothing

##### **(i) World Trade Organization and Agreement on Textiles and Clothing:**

The Agreement on Textiles and Clothing (ATC) of the **World Trade Organization** is an interim arrangement that took effect on January 1, 1995 and expires on December 31, 2004. Its purpose is to establish a framework for the phased elimination of quotas on textiles and clothing. Quotas are being eliminated in four discreet stages over the ten-year implementation period. Trade in products on which quotas have been eliminated are thereafter governed by normal WTO rules - i.e., they are "integrated" into the provisions of the General Agreement on Tariff and Trade (GATT) under the WTO.

##### **(1) ATC on the right track**

The ATC sets out the rules for use and elimination of quotas and the use of textile and clothing specific safeguards that WTO members may apply to each other. Moreover, the ATC prescribes the level of coefficients to be applied to the annual growth rates of quotas that are not yet integrated.

**(2)** Effective January 1, 2003, the Government of Canada extended duty free and quota free access to imports from 48 of the world's least developed countries (LDCs), with the exception of supply-managed agricultural products (dairy, poultry and eggs). This meant that for all eligible textiles and clothing imports from these countries quotas were eliminated two years earlier than that required by the ATC.

As scheduled in December 2001, following China's accession to the WTO, its bilateral restraint agreement was subsumed within the ATC. On January 1, 2002, upon Chinese Taipei's accession to the WTO, its bilateral agreement was also subsumed within the ATC.

##### **(3) Safeguard rules**

The ATC allows for safeguard quotas on products not yet integrated if these imports harm or threaten to harm Canadian production, but no such measures have ever been implemented by Canada.

**(4) No new quotas**

Canada introduced no new import quotas in 2003. As of December 31, 2003, Canada applied quotas to 40 countries; 31 of which were WTO members. Of the remaining 9 countries, Canada had bilateral arrangements with 7, and 2 are subject to unilateral measures.

**(ii) Bilateral agreements**

All the quota agreements with non-WTO member countries were extended to December 31, 2004, to coincide with the conclusion of the ATC.

**(iii) Trade with NAFTA countries:**

Products must originate in North American Free Trade Agreement (**NAFTA**) countries in order to qualify for NAFTA rates of duties. This is determined through the use of NAFTA rules of origin for yarn, fabric and clothing. For apparel and textiles that do not meet these rules of origin, NAFTA introduced preferential access to the Canadian, US and Mexican markets through the use of Tariff Preference Levels (TPLs). The four broad categories of TPL and their corresponding volumes for access to the U.S. market which have been fixed since 1999, are as follows:

1. Wool Apparel - 5,325,413 square metre equivalents (SMEs)
2. Cotton or Man-made Apparel - 88,326,463 SMEs
3. Cotton or Man-made Fibre Fabrics and Made-up Goods - 71,765,252 SMEs
4. Cotton or Man-made Fibre Spun Yarns - 11,813,664 kilograms

**(A) TPL allocation**

Canadian companies with apparel TPL allocations may export to their partners in the North American free trade zone products manufactured in Canada from fabrics and yarns imported from outside this zone up to the limit of their allocations.

Because of the extensive use of TPLs for wool and non-wool apparel, an allocation policy essentially based on the historical TPL usage of exporters was developed for these categories of products.

The TPLs for fabrics are allocated on a historical-use basis to the extent of utilization by exporters, and on a first-come, first-served basis for those amounts not allocated directly to exporters. Spun yarn TPL is allocated these TPLs on a first-come, first-served basis.

**(B) TPL utilization in 2003**

The 2003 TPL utilization rates for the four categories of Canadian TPL exports were as follows:

- wool apparel and made-up goods - 98% for the United States and 5% for Mexico;
- cotton or man-made apparel and made-up goods - 82% for the United States and 6% for Mexico;
- cotton or man-made fabrics and made-up goods - 74% for the United States and 35%

for Mexico;

- cotton or man-made spun yarns - 25% for the United States and 0% for Mexico.

(TPL historical utilization statistics.)

As provided for in the NAFTA, the annual growth rates for the TPL volumes for Canadian goods entering the United States were eliminated at the end of 1999. No growth rates were provided for trade with Mexico.

**(C) TPL transfer mechanism**

In 1998, a mechanism was put in place to allow companies to transfer a portion of their TPL allocations to other companies, without penalty. The mechanism was implemented in two stages, with an implementation date of October 1, 1998 for wool apparel and January 1, 1999 for non-wool apparel. The transferable portion of the TPL allocation is 25%.

**(D) TPL for "new entrants"**

The method of allocating TPL is based primarily on historic utilization. However, small TPL pools have been created for wool and non-wool apparel for the use of new exporters.

**(iv) Issuance of certificates and permits**

**(A) TPL**

For the purposes of administering the NAFTA TPL provisions, DFAIT issues import and export certificates of eligibility pursuant to section 9.1 of the Export and Import Permits Act. The following numbers of applications for certificates of eligibility were processed in 2003:

**(a) Exports (certificates of eligibility)**

certificates issued..... 65,569  
 certificates denied..... 1,182  
 certificates cancelled..... 1,509

**(b) Imports (certificates of eligibility)**

certificates issued..... 12,057  
 certificates denied..... 75  
 certificates cancelled..... 378

**(B) Non-TPL import permits**

For the purposes of administering Canada's import quotas - both under the provisions of the ATC and pursuant to our bilateral and unilateral restraint arrangements with non-WTO members and for monitoring imports under the NAFTA, import permits are required for the importation of virtually all textile and apparel products into Canada.

**(a) Import permits (apparel)**

permits issued..... 444,281  
 permits denied ..... 5,218  
 permits cancelled..... 10,580

**(b) Import permits (fabrics)**

permits issued .....192,148  
 permits denied..... 500  
 permits cancelled ..... 3,787

**(b) Agricultural Products**

Canada is a signatory to the WTO Agreement on Agriculture concluded in December 1993. The Agreement obliged Canada to convert its existing quantitative agricultural import controls to a system of tariff rate quotas (TRQs). The TRQs came into effect in 1995.

Under these TRQs, imports are subject to low "within access commitment" rates of duty up to a predetermined limit (i.e. until the import access quantity has been reached), while imports over this limit are subject to higher "over access commitment" rates of duty. For most products, the privilege of importing at the within-access commitment rates of duty is allocated to firms through the issuance of import allocations (or "quota-shares"). Those with quota-shares will, upon application, receive specific import permits giving access to the within-access commitment rates of duty as long as they meet the terms and conditions of permit issuance. These conditions are normally described in the Allocation Method Orders. Imports in excess of access levels are permitted under **General Import Permit No. 100 - Eligible Agricultural Goods**, which allows unrestricted imports at the higher rate of duty. Canada continues to respect its access level commitments under the North American Free Trade Agreement (NAFTA), and where a NAFTA commitment exists, Canada applies either the NAFTA or WTO commitment level for each commodity - whichever is higher.

All tariff rate quotas (TRQs) are based on Customs Tariff item numbers. Therefore, when the TRQs came into effect in 1995, the **Import Control List (ICL)** was amended to replace references to named products (e.g. "turkey and turkey products") with tariff item numbers. However, for ease of understanding, the older product description will continue to be used.

**1) Poultry and eggs**

Effective January 1, 1995, Canada's chicken, turkey, broiler hatching egg and chick, shell egg and egg product quantitative restrictions were converted to TRQs.

Four product groups were maintained on the ICL in order to support supply management of poultry under the Farm Products Marketing Act and to support action taken under the World Trade Organization Act. These four product groups were:

- chicken and chicken products;
- turkey and turkey products;
- broiler hatching eggs and chicks; and
- eggs and egg products

**Chicken and Chicken Products**

Chicken was placed on the ICL on October 22, 1979. Pursuant to the NAFTA, the import access level for 2003 amounted to 69,761,925 kg expressed in eviscerated equivalent weight. Within access commitment permits were issued for 69,236,815 kg.

While the import access level is set at 7.5% of the previous year's chicken production, provision is made to issue import permits supplementary to the import access level to meet overall Canadian market needs. During 2003, supplementary import permits were issued for 45,000 kg (eviscerated equivalent) of chicken for

market shortages. Supplementary permits were issued for 25,637,021 kg of chicken for re-export. Supplementary permits were also issued for 1,485,692 kg of chicken to compete with imported chicken-containing products that are not on the ICL. Special supplementary permits were also issued for 1,089,641 kg as part of a course of action to address pressures on the non-ICL portion of the TRQ.

### **Turkey and Turkey Products**

Turkey was placed on the ICL on May 8, 1974. Pursuant to the FTA and NAFTA, the access level is set annually at 3.5% of the domestic production quota for that year or the WTO level, whichever is higher. The import access level for 2003 was the WTO level, which was 5,588,000 kg, expressed in eviscerated weight. In 2003, within access commitment permits were issued for 5,533,560 kg in eviscerated weight. Provision is made for import permits supplementary to the import access level to meet overall Canadian market needs. During 2003, no supplementary import permits were issued for market shortages. Import permits totalling 1,422,959 kg for turkey for re-export were issued to companies competing on world markets. Supplementary permits were issued for 103,624 kg of turkey to compete with imported turkey-containing products that are not on the ICL.

### **Broiler Hatching Eggs and Chicks**

Broiler hatching eggs and chicks for chicken production were placed on the ICL on May 8, 1989. Pursuant to the FTA and NAFTA, the combined import access level for broiler hatching eggs and chicks is 21.1% of the estimated domestic production of broiler hatching eggs for the calendar year to which the allocation applies. The combined annual import access level is divided into separate levels, of 17.4% for broiler hatching eggs and 3.7% for egg-equivalent chicks.

In 2003, the combined import access level was set at 141,122,575 eggs. That same year, within access commitment permits were issued for 88,559,750 hatching eggs and 16,543,725 egg-equivalent chicks, for a combined total of 105,098,475. Provision is made to issue import permits supplementary to the import access level to meet overall Canadian market needs.

During 2003, no supplementary import permits were issued for market shortages. Supplementary permits were issued for 3,566,520 eggs for the subsequent re-export of chicks.

### **Eggs and Egg Products**

Eggs and egg products were placed on the ICL on May 9, 1974. Pursuant to the NAFTA, the import access level for shell eggs is calculated at 1.647% of the previous year's domestic production. For 2003, this amounted to 8,563,330 dozen eggs. Within access commitment import permits were issued for 8,540,669 dozen eggs.

Pursuant to the NAFTA, the import access levels for egg powder and liquid, frozen or further processed egg products is calculated at 0.627% and 0.714% of the previous year's domestic production respectively. For 2003 this amounted to 492,259 kg and 2,134,593 kg respectively. Within access commitment permit issuance totalled 368,535 kg for egg powder and 2,035,398 kg for liquid, frozen or further processed eggs.

In 1996 an allocation for eggs for breaking purposes only was introduced. This resulted from an increase in the import access quantity available for allocation, due to Canada's WTO access commitment, which is higher than Canada's NAFTA

commitment. The allocation is equal to the difference between the WTO and NAFTA commitment levels. The 2003 import access level for eggs for breaking purposes only was 5,834,342 dozen eggs. During 2003, within access commitment permits were issued for 5,754,450 dozen eggs.

While the basic access levels are fixed each year, provision is made to issue import permits for eggs or egg products supplementary to the import access level to meet overall Canadian market needs.

With regard to shell eggs, supplementary permits were issued to import 217,800 dozen to cover market shortages.

For powdered eggs, no supplementary import permits were issued for market shortages.

In 2003, supplementary permits for 556,078 kg of liquid, frozen and further processed egg products were issued for market shortages.

For eggs for breaking purposes, supplementary permits for market shortages were issued to import 2,524,398 dozen eggs.

Companies requiring imported eggs or egg products for re-export may be issued import permits to compete on world markets. However, under this arrangement, no import permits for shell eggs were authorized in 2003.

For powdered eggs, 26,764 kg in supplementary import permits were issued for re-export.

For liquid, frozen and further processed egg products, import permits for 5,449,751 kg were issued for re-export.

For eggs for breaking purposes, import permits for 108,000 dozen were issued for re-export.

Import permits are required for importing inedible egg products into Canada, although importation is subject to surveillance only. Permits were issued for 423,274 kg of this type of product in 2003.

## **2) Dairy products**

Quantitative restrictions in ten categories of dairy products were converted to TRQs to support supply management of industrial milk under the *Canadian Dairy Commission Act* and action taken under the *World Trade Organization Act*. These products are:

- butter (implemented on August 1, 1995);
- cheese of all types other than imitation cheese (implemented on January 1, 1995);
- buttermilk in dry, liquid or other form (implemented on January 1, 1995);
- fluid milk (implemented on January 1, 1995);
- skimmed milk in dry, liquid or other form (implemented on January 1, 1995);
- dry whole milk (implemented on January 1, 1995);
- animal feeds containing more than 50% non-fat milk solids (implemented on January 1, 1995);



- dry whey (implemented on August 1, 1995);
- evaporated and condensed milks (implemented on January 1, 1995);
- heavy cream (implemented on August 1, 1995);
- products consisting of natural milk constituents (implemented on January 1, 1995);
- ice cream and ice cream novelties in retail packaging (implemented on January 1, 1995); and
- yoghurt (implemented on January 1, 1995).

### **Butter**

The access level for butter was 3,274,000 kg for the quota year from August 1, 2002 to July 31, 2003, of which 2,000,000 kg was reserved for imports from New Zealand. The entire TRQ was allocated to the **Canadian Dairy Commission** and the total access level was utilized. Supplementary import permits for butter and butteroil for re-export were issued for 18,154,013 kg.

### **Cheese**

The access level for cheese has been fixed since 1979 at 45,000,000 lbs or 20,411,866 kg. Under the provisions of a December 1995 Agreement between Canada and the European Union, 66% of the TRQ is allocated to cheese imports from the European Union and 34% to imports from non-EU sources. Within access commitment import permits were issued for 20,411,866 kg of cheese, and permits for re-export were issued for 4,547,528 kg. Other supplementary import permits totaled 1,048,259 kg.

### **Buttermilk**

The access level for buttermilk is 908,000 kg. The TRQ, all of which was used, is reserved exclusively for imports from New Zealand. Supplementary import permits were issued for 623 kg of buttermilk product.

### **Fluid Milk**

The fluid milk access level was 64,500 tonnes, which represents estimated annual cross-border purchases by Canadian consumers. The goods are imported under **General Import Permit No. 1 - Dairy Products for Personal Use**. On January 26, 2000 General Import Permit No. 1 was amended. The \$20 limit in value for each importation of fluid milk imports for personal use was removed. Supplementary import permits for re-export totaled 12,883,910 kg.

### **Skimmed and Whole Milk Powder and Animal Feed**

The access level for these commodities is zero. Supplementary import permits for re-export were issued for 2,156,759 kg of skimmed milk powder, and 21,347,915 kg of whole milk powder. Supplementary permits for other purposes were issued for 37,527 kg of skimmed milk powder and 23,903 kg of whole milk powder.

### **Dry Whey**

The access level for dry whey is 3,198,000 kg, all of which was used. Supplementary import permits were issued for 14,099,114 kg of dry whey.

### **Evaporated and Condensed Milk**

The access level for evaporated and condensed milk was 11,700 kg. The TRQ, all of which was used, is reserved exclusively for imports from Australia. Supplementary import permits for purposes other than re-export were issued for 2,713 kg, and supplementary import permits for re-export were issued for 407,678 kg.

### **Heavy Cream**

The heavy cream access level is 394,000 kg for sterilized cream having a minimum of 23% butterfat and sold in cans having a volume not exceeding 200 ml. The quota year was August 1, 2002 to July 31, 2003. Import permits were issued for 394,000 kg. Supplementary import permits were issued for re-export for 205,148 kg, and for other purposes for 16,677 kg.

### **Products Consisting of Natural Milk Constituents**

The access level for these products is 4,345,000 kg; permits were issued to import 4,345,000 kg. Supplementary import permits for re-export were issued for 1,311,997 kg.

### **Ice Cream and Yoghurt**

The access level was 484,000 kg for ice cream and 332,000 kg for yoghurt. Within access commitment import permit issuance in 2003 totaled 442,862 kg for ice cream and 332,000 kg for yoghurt. In 2003, supplementary permits were issued for 6,317 kg of ice cream for re-export. Supplementary import permits for yoghurt for other purposes totaled 45,848 kg.

## **3) Margarine**

The TRQ for margarine was introduced on January 1, 1995. The import access level for 2003 was 7,558,000 kg. Within access commitment permit issuance totalled 3,026,633 kg.

## **4) Beef and veal**

The restrictions on imports of non-NAFTA beef and veal imposed under the Meat Import Act were converted to a TRQ on January 1, 1995. The restrictions apply to all imports of fresh, chilled and frozen beef and veal imported from non-NAFTA countries (also excluding Chile); the TRQ level is fixed at 76,409 tonnes. For 2003, 35,000 tonnes were reserved for imports from Australia and 29,600 were reserved for imports from New Zealand. The balance of the TRQ (11,809 tonnes) was reserved for imports from all countries, including Australia and New Zealand, once their country-specific reserves were fully used.

For 2003, 75% of the import access quantity, or 57,307 tonnes, was allocated to processors and retailer-processors on the basis of the amount of non-NAFTA beef and veal they processed in their own facilities in the period from January 1, 2002 to April 30, 2003. The balance of the import access level, or 19,102 tonnes, was allocated to distributors on the basis of their sales of non-NAFTA beef and veal in the same period.

On May 16, 1997, a supplementary permit policy was introduced to allow firms to import in excess of their quota shares. Under the policy, permits were normally issued if the price of non-NAFTA beef and veal entering Canada is not less than the price of similar goods entering the United States. This policy was changed in 2003 to one where applications for supplementary imports are normally refused.

Supplementary permits issued in 2003 totalled 55,567,454 kg. Import permits totalling 118,648,989 kg (including supplementary permits) were issued in 2003.

#### 5) Wheat, barley and their products

The restrictions imposed on imports of wheat, barley and their products under the Canadian Wheat Board Act were converted to TRQs on August 1, 1995. These TRQs are administered by Revenue Canada on a first-come-first-served basis and have a July 31 year-end. Importers may cite General Import Permit No. 20 - Wheat and Wheat Products, Barley and Barley Products to import goods at the lower rate of duty. Once the access levels are filled, importers must cite General Import Permit No. 100 - Eligible Agricultural Goods on Customs entry documents to import goods at the higher rate of duty. The following annual (August 1 to July 31) TRQ levels for wheat, barley, wheat products and barley products apply:

Wheat: .....	226,883 tonnes
Wheat products: .....	123,557 tonnes
Barley: .....	399,000 tonnes
Barley products:.....	19,131 tonnes

Imports in the period from August 1, 2002 to July 31, 2003, were 176,472 tonnes, 165,293 tonnes, 268,555 tonnes, and 19,005 tonnes in these four product categories respectively.

#### (c) **Steel Products**

Carbon steel products (semi-finished steel, plate, sheet and strip steel, wire rods, wire and wire products, railway-type products, bars, structural shapes and units, and pipes and tubes) were initially placed on the ICL effective September 1, 1986 following a report by the Canadian Import Tribunal recommending the collection of information on goods of this type entering Canada. Speciality steel products (stainless flat-rolled products, stainless steel bars, wire and wire products, alloy tool steel, mold steel and high speed steel) were added to the ICL effective June 1, 1987 pursuant to an amendment to the Act providing for import monitoring of steel products under certain conditions. The current mandate for the steel monitoring program extends until August 31, 2005.

The purpose of placing carbon and speciality steel on the ICL was to provide a more timely and precise information system and to gain a better appreciation of the complexities of the international steel trade given the production capacity, market conditions and export patterns of the major steel producing countries.

The program is global in nature. There are no quantitative restrictions, and permits are issued on request.

In 2003 a total of 210,036 permits were issued to allow for the importation of 7.0 million tonnes of steel with a reported value of \$5.9 billion.

#### (d) **Weapons and Munitions**

Pursuant to items 70 to 73 and 91 of the ICL, an import permit is required to import into Canada all small- and large-calibre weapons, ammunition, bombs, pyrotechnics, tanks and self-propelled guns. As well, all components and parts specifically designed for these items also require import permits.

Canadian manufacturers approved by the Attorney General of the province are permitted to import prohibited weapons under strictly controlled conditions.

### 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(1) 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 the making of regulations prescribing the information and undertakings to be furnished by applicants for permits, the procedure to be followed in applying for and issuing permits, and the 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 specific goods up to specified limits or subject to specified conditions.

The following is a statistical summary of applications for import permits processed in 2003:

permits issued .....	882,681
permits denied .....	7,676
permits cancelled .....	24,935

### Import certificates and delivery verification certificates

The issuance of import certificates and delivery verification certificates is provided for under section 9 of the Act and under the Import Certificate Regulations (C.R.C., c. 603). Import certificates enable an importer to describe goods in detail and to certify that he/she will not assist in their disposal or diversion during transit. Such assurances may be required by the country of export before permitting the shipment of certain goods, most notably munitions and strategic goods. An import certificate is not an import permit and does not entitle the holder to import the goods described on the certificate into Canada. Delivery verification certificates may be issued following arrival of the goods in Canada to enable an exporter of goods to Canada to comply with requirements of the exporting country.

In 2003, the Department issued 2,554 import certificates and 274 delivery verification certificates.

## 2. EXPORT CONTROL

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 the Governor in Council deems it necessary to control for any of the following purposes:

- to ensure that arms, ammunition, implements or munitions of war, naval, army or air stores or any articles deemed capable of being converted thereinto or made useful in the production

thereof or otherwise having a strategic nature or value will not be made available to any destination where their use might be detrimental to the security of Canada;

- to ensure that any action taken to promote the further processing in Canada of a natural resource that is produced in Canada is not rendered ineffective by reason of the unrestricted exportation of that natural resource;
- to limit or keep under surveillance the export of any raw or processed material that is produced in Canada in circumstances of surplus supply and depressed prices and that is not a produce of agriculture;
- to implement an intergovernmental arrangement or commitment;
- to ensure that there is an adequate supply and distribution of the article in Canada for defence or other needs; or
- to ensure the orderly export marketing of any goods that are subject to a limitation imposed by any country or customs territory on the quantity of the goods that, on importation into that country or customs territory in any given period, is eligible for the benefit provided for goods imported within that limitation.

The Export Control List (ECL) comprises eight groups, as follows:

Group 1: Dual Use List

Group 2: Munitions List

Group 3: Nuclear Non-proliferation List

Group 4: Nuclear-Related Dual Use List

Group 5: Miscellaneous Goods

Group 6: Missile Technology Control Regime List

Group 7: Chemical and Biological Weapons Non-Proliferation List

Group 8: Chemicals for the Production of Illicit Drugs

Groups 1 and 2 encompass Canada's multilateral strategic commitments under the Wassenaar Arrangement. Groups 3, 4, 6 and 7 represent our multilateral commitments under the various non-proliferation regimes designed to control the proliferation of weapons of mass destruction (chemical, biological and nuclear weapons) as well as their delivery systems. Group 5 comprises various non-strategic goods controlled for other purposes, as provided in the Act. It also includes goods of US origin. This provision is intended to prohibit the diversion of US origin goods through Canada. Group 8 reflects commitments under the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

### **Softwood Lumber**

Effective April 1, 2001 the Department of Foreign Affairs and International Trade introduced a national softwood lumber monitoring program. The objective of this monitoring program is to collect data respecting softwood lumber exports to the United States for all Canadian provinces and territories.

The Governor in Council authorized this program by placing softwood lumber on the Export Control list (ECL), item 5105, which has the effect of requiring permits issued by the Minister of International Trade for exports to the United States. Export permits are issued under the authority of section 7(1) of the Export and Import Permits Act, while fees are levied under the authority of section 9(1) of the Financial Administration Act. Any person who holds a permit to export softwood lumber to the United States is required to keep records relating to its issuance for 60 months after the date of issuance of the permit.

From January 1, 2003 to December 31, 2003, exports of softwood lumber totaled 19.04

billion board feet.

The following is a statistical summary of softwood lumber permit applications processed in 2003:

permits issued .....	39,694
permits routed .....	2,111
permits rejected .....	105
permits cancelled .....	612

### **Agri-food Products**

As part of its implementation of the WTO agreements, the United States imposed TRQs on imports of peanut butter, certain sugar-containing products and refined sugar from Canada. The U.S. Government administers these TRQs on a first-come, first-served basis. In order to ensure orderly exportation under the TRQ system, Canada placed these products on the Export Control List. Exports of peanut butter, certain sugar-containing products and refined sugar to the United States require an export permit issued through EICB if exporters wish to take advantage of the in-quota US tariff rate. There are no quantitative restrictions on the exportation of these products from Canada to other destinations.

#### **1. Peanut butter**

Peanut butter was placed on the ECL on January 1, 1995. The Canada-specific TRQ that the United States provides is 14,500 tonnes. During 2003 the quota was 98% utilized.

#### **2. Sugar-containing products**

Sugar-containing products were placed on the ECL on February 1, 1995. Under WTO rules, the United States imposed a TRQ on imports from all sources of certain sugar-containing products (SCP) falling under Chapters 17, 18, 19 and 21 of the Harmonized Tariff Schedule of the United States at a level of 64,773 tonnes. The quota year for sugar-containing products is from October 1 to September 30.

In September 1997, Canada and the United States exchanged letters of understanding under which Canada obtained a country-specific reserve of 59,250 tonnes within the US SCP TRQ. The understanding also provides that only goods that are "product of Canada" may be included in Canada's country-specific reserve. In 2002-2003, Canada's country reserve was fully utilized.

#### **3. Refined sugar**

Refined sugar was placed on the ECL on October 1, 1995. Under WTO rules, the United States established a global TRQ for refined sugar of 60,000 tonnes (raw equivalent). The quota year for refined sugar is from October 1 to September 30.

In September 1997, Canada and the United States exchanged letters of understanding under which Canada obtained a country-specific reserve of 10,300 tonnes, raw equivalent (i.e. 9,579 tonnes refined sugar), within the US refined sugar TRQ. The understanding also provides that only goods that are "product of Canada" may be included in Canada's country specific reserve. In 2002-2003, Canada's country reserve was fully utilized.

The following is a statistical summary of applications for export permits processed in 2003 for peanut butter, sugar containing products and refined sugar:

permits issued .....	6,757
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permits rejected ..... 54  
 permits cancelled ..... 271

### **Area Control List**

Section 4 of the Act provides for the control of "any goods to any country included in an Area Control List" (ACL). Angola was removed from the ACL in 2003 leaving only one country, Myanmar (Burma), on the ACL at year's end.

### **Automatic Firearms Country Control List**

The Act provides for the establishment of an Automatic Firearms Country Control List (AFCCCL). Only countries on this list are eligible to receive automatic firearms as defined in ECL Item 5500.

They are:

Australia	Norway
Belgium	
Botswana	Saudi Arabia
Denmark	Spain
France	Sweden
Germany	
Greece	United Kingdom
Italy	United States
Netherlands	
New Zealand	

### **Issuance of Export Permits**

An export permit is required before any item included in the ECL may be exported from Canada to any destination, with the exception (in most cases) of the United States. This requirement enables Canada to meet international commitments, such as its commitment to prevent the proliferation of missile technology and biological, chemical and nuclear weapons. Nuclear material and equipment, logs, automatic firearms, pulpwood, roe herring and red cedar bolts and blocks are among the goods requiring permits for export to the United States. Permits are also required to export any goods to countries on the ACL, unless exempted.

In 2003, 7,176 individual permits were issued, up from 5,605 in 2001. 24 permits were denied, 377 applications were withdrawn, and 12 permits were cancelled.

### **General Export Permits (GEPs)**

The Act provides for the issuance of general permits authorizing the export of certain designated goods to all destinations or to specified destinations. GEPs are intended to facilitate exports by enabling exporters to export selected goods without applying for individual permits. They also provide a means of identifying goods for which exports to countries on the ACL are restricted. The GEPs in effect during 2000 included:

GEP EX. 1: Goods with a value of less than \$100, household articles, personal effects,

	business equipment required for temporary use outside Canada and personal automobiles
GEP EX. 3:	Consumable stores supplied to vessels and aircraft
GEP EX. 5:	Forest products
GEP EX.12:	US origin goods
GEP EX.18:	Personal computers
GEP EX.26:	Industrial chemicals
GEP EX.27:	Nuclear-related dual use goods
GEP EX.29:	Eligible industrial goods
GEP EX.30:	Certain industrial goods to eligible countries and territories
GEP EX.31:	Peanut butter
GEP EX 37:	Chemicals and Precursors to the United States
GEP EX 38:	CWC Toxic Chemical and Precursor Mixtures
GEP EX 40:	Certain Industrial Chemicals

### 3. OFFENCES

Penalties are listed in section 19 of the Act as follows:

"(1) Every person who contravenes any provision of this Act or the regulations is guilty of:

(a) an offence punishable on summary conviction and liable to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding twelve months, or to both; or

(b) an indictable offence and liable to a fine in an amount that is in the discretion of the court or to imprisonment for a term not exceeding ten years, or to both.

(2) A prosecution under paragraph (1)(a) may be instituted at any time within but not later than three years from the time when the subject matter of the complaint arose."

Section 25 of the Act delegates responsibility for the enforcement of the Act to all officers as defined in the Customs Act (section 2(1)). The Department of International Trade entrusts the enforcement of the Act to Canada Border Services Agency, and to the Royal Canadian Mounted Police.

#### **Status of Export Controls Investigations for 2003**

Voluntary compliance continued to be a key element in Canada's export control system in 2003. Canada Customs and Revenue Agency issued 233 warning letters and made 236 detentions; queries were made in another 193 cases, and background information checks requested in 199 instances, and 81 cases were referred for investigation. Seizures were made in 31 cases.

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Date Modified:  
2006-09-08

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