



# communiqué

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## EXPORT CONTROLS POLICY

The Right Honourable Joe Clark, Secretary of State for External Affairs, today announced new guidelines following a review of export controls policy undertaken by the Government.

Mr. Clark indicated that the review had been undertaken in response to concerns expressed by various groups, particularly persons concerned that Canadian exports might contribute to the repression of human rights in certain countries. Business and industry had also expressed concern that the export controls framework was unresponsive to changing circumstances. The results of this review have balanced industry concerns with broader foreign policy objectives, as well as streamlining and clarifying the policy.

The Minister stressed that Canada will not allow the export of military equipment to 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: "The new policy with respect to countries with serious human rights problems places the onus of proving 'no reasonable risk' squarely on the exporter".

Mr. Clark pointed out that the previous policy had also restricted exports of civilian strategic equipment. The new policy focusses on military equipment and will restrict the export of civilian strategic equipment only to COCOM proscribed destinations - principally, the Soviet Union and

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its Warsaw Pact allies - and to countries where there is a risk of diversion of this equipment to those destinations (COCOM is the Coordinating Committee on Multilateral Strategic Export Controls. COCOM's membership includes NATO countries excluding Iceland, plus Japan).

The Minister noted the importance of Canada's defence industry in meeting our obligations to our NATO allies. He said that while Canada is not an important manufacturer of offensive military equipment, it is an important producer of defensive military equipment, particularly of components and sub-assemblies of larger military systems. Canadian firms will now be authorized to export these components and assemblies to all countries with which Canada has a suitable government-to-government agreement and where there exists a bona fide joint venture arrangement between the Canadian and the foreign manufacturer. In such cases, the authorization to export the completely assembled product will now rest with the country of final manufacture.

## EXPORT CONTROLS POLICY

### BACKGROUND PAPER

The Secretary of State for External Affairs announced new guidelines for exports of military and strategic goods. These guidelines follow a thorough and detailed Cabinet review which took into account the views of a wide range of Canadians from many walks of life. The Government considered the position of manufacturers and exporters as well as the many Canadians who are concerned about disarmament and human rights. The new policy and guidelines represent the Government's preferred path in this complex policy area. The new policy, however, is not a radical departure from previous policies; rather, the Government is revitalizing and adapting the existing policy to current circumstances and clarifying certain elements.

The Minister indicated that there has been a continuity in export controls policy over the years. The Government believes Canadians hold strong views about the role which their country plays internationally. They want Canada to maintain a series of defence obligations, most notably in the NATO alliance and within NORAD; they want Canada to participate in peackeeping missions; to seek the maintenance of international order and stability; and to maintain a strong stand against human rights abuses. This latter concern has been clearly expressed by a number of Canadians who are justly disturbed by the lack of respect given to human rights in certain countries. All of these elements were weighed in the process which resulted in this policy.

The Minister stated that Canada would closely control the export of military goods and technology to:

- 1) countries which pose a threat to Canada and its allies;
- 2) countries involved in or under imminent threat of hostilities; and
- 3) countries under United Nations Security Council sanctions; or
- 4) 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.

Mr. Clark emphasized that the wording in the first three categories follows that of the old policy, but the fourth considerably strengthens the rules respecting human rights. Previously, the denial of export permits was based on a regime being declared "wholly repugnant to Canadian values". As no regime was ever so declared, the denial of export permits was on an ad hoc basis. Through a more demonstrable statement of concern, the new policy will greatly improve the Government's ability to enforce this important consideration.

For greater certainty in the application of the policy, a register of countries falling into each category will be maintained. The register, which will be confidential, will be reviewed by Ministers regularly and changed when warranted.

In reviewing and adapting the policy for the export of military equipment, the Government recognizes the importance of the Canadian defence industry. Canada's defence industry is necessary for reasons of national security and sovereignty and has over the years made an important contribution to Canada's economic well being. It contains some 300 firms providing direct employment to some 35,000 persons. The Government also recognizes the importance of this industry to Canada's role in NATO. The continued existence of the industry depends on exports to our allies and other friendly countries. In 1985, annual sales of firms in this industry were \$4.6 billion, of which \$2 billion was exported.

The market for defence equipment in Canada is limited. Canadian defence sector companies produce for the most part defensive military equipment and strategic products such as transport aircraft and communications equipment. Canadian defence companies are primarily involved in the assembly or manufacture of components and sub-systems, rather than whole systems. It is not possible for our defence industry to recover the large costs of development of their products through Canadian sales alone. Therefore, these goods are exported principally to the United States and to our NATO allies, where they are integrated into large defence systems. In recognition of this fact, the Government will continue to maintain an open approach to the export of military goods and technology to our NATO allies and other friendly countries. In addition, companies will be authorized to export sub-assemblies and components of large systems where there is a bona fide joint venture between the Canadian and the foreign manufacturer and where Canada has a government-to-government research or production agreement.

Since there has been some difference of views among various groups as to what was considered to be military equipment, the Government considered it important that all participants share a common understanding of what goods are being controlled. The Government has defined military goods using the multilaterally-agreed International Munitions List (Group 7 of the current Export Control List). This List, in addition to arms and ammunition, also includes equipment "specially designed for military purposes", such as military vehicles, military range-finding equipment, and certain types of electronic equipment manufactured to military specifications.

Canadian policy will continue to prohibit the export of military and strategic goods to the Republic of South Africa. The close control of exports of military goods to areas of conflict reflects a longstanding Canadian desire not to become involved in local disputes and is consistent with the Government's objective of promoting international order and stability through the peaceful resolution of disputes.

The Government also addressed the question of our national security. One means of ensuring that Canada's obligations for mutual defence and security are met is through the denial not only of military but also of strategic goods to those countries which pose a threat to our security, or to that of our allies. To this end, Canada will continue to participate in the "Coordinating Committee on Multilateral Strategic Export Controls" (COCOM), which includes our NATO allies and Japan. This organization is at the centre of an informal coordinating arrangement whose aim is to harmonize the approach taken by its members in controlling exports of strategic and military goods. This control is exercised by means of an embargo on all equipment and technology which would enhance the military potential of possible adversaries. These countries are principally the Soviet Union and its Warsaw Pact allies. The People's Republic of China is also subject to COCOM controls.

The Secretary of State for External Affairs, recognizing that the purpose of the policy is principally to control exports of military and strategic goods, reiterated that the Government encourages trade in peaceful goods with all countries. Therefore existing restrictions on trade in peaceful goods to the Soviet Union and its Warsaw Pact allies will be removed. This will be done by removing these countries from the Area Control List, thereby removing the requirement for export permits for civilian non-strategic (i.e. peaceful) goods. Controls on military and strategic equipment and technology to these countries will continue under the Export Control List.

EXPORT CONTROLS POLICY

QUESTIONS and ANSWERS

Q1. Why does Canada export military equipment?

A. Canada produces military equipment in order to meet our defence needs and our obligations under NATO and NORAD. We have some 300 companies and 35,000 persons involved in the manufacture of defence and civilian products. Few companies produce defence equipment exclusively and few products of the Canadian defence sector are classed as offensive military equipment. Exports to the USA and Europe are necessary to reduce overall cost and to keep our industry innovative and competitive.

Q2. How has the new policy changed from the previous one?

A. The new policy clarifies the focus of the old policy and improves certain definitions.

Under the previous policy, both military and civilian strategic goods were considered together, particularly when it came to denying exports of these goods to certain classes of countries. The new policy focuses on military equipment. This means that civilian strategic goods may be exported to a wider number of countries than before.

Military goods are designated clearly, and these goods are to be closely controlled to four groups of countries. While three of these groups are unchanged, the definition of the fourth group is considerably refined, to allow the policy to be put into effect with no doubts about its intent.

Particular arrangements are made for joint ventures, as this is an area where Canadian policy did not reflect the changes in industrial structure over the years.

Q3. Why does the definition of military equipment make no reference to the End User?

A. Our concern is with military equipment itself. In addition to military goods, armies and other paramilitary forces currently require a variety of non-military equipment

(communications and office equipment, trucks and clothing, etc). We see no reason for Canadian companies not to supply non-military goods, since these goods can be supplied by many countries, yet they add nothing to the offensive or belligerent capacity of the military or para-military organization.

Q4. How are military goods defined?

A. International negotiations in Paris, through COCOM, lead to agreement on what items are to be included on the International Munitions List. This List is published in Canada as Group 7 of the Export Control List. It includes all weapon systems, as well as other equipment "specially designed for military purposes".

Q5. What about helicopters?

A. A limited number of items lend themselves to use for civilian as well as for military purposes. When a class of goods is not clearly and uniquely either military or civilian, there will be ministerial consultation to determine a general policy for such goods. Helicopters are an example of this. The SSEA is currently considering such a policy for helicopters, in conjunction with his colleagues, the Minister of National Defence and the Minister of Regional Industrial Expansion.

Q6. What is the situation regarding exports to South Africa?

A. The Republic of South Africa is a special case in our policy. We in Canada have accepted to limit exports of all military goods to military end-users, in accordance with UN Security Council Resolution 418 (1977), and more recently, we decided to refuse to export strategic and military goods to all RSA departments and agencies. This is part of a measured series of actions. More may be necessary to convince the government to dismantle the apartheid system. Measures affecting imports are currently in preparation following the Commonwealth Heads of Government meeting in London.

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Q7. How are human rights factored in?

A. Export proposals for military goods to certain countries will trigger an automatic inter- and intra-departmental consultation process. Human rights will be considered by all officials involved in the consultation process. Ministers would be made aware of the results of this process and would personally consider any exceptions to the guidelines.

Q8. What was wrong with the phrase, "wholly repugnant to Canadian values" when describing governments which abuse the human rights of their citizens?

A. Since 1978 a number of countries had been identified whose governments have records of serious human rights violations, but none could be categorized as "wholly repugnant to Canadian values". The new definition is firmly founded in demonstrable fact, and thus should permit the identification of offending regimes.

Q9. Why are strategic goods to countries with bad human rights records not controlled as they were under the old policy?

A. Cabinet has reviewed this point carefully. It has concluded that exports of strategic goods are of concern only insofar as there may be a potential for their diversion to COCOM-proscribed destinations. Strategic goods are not (by their nature) used to abuse human rights. Military goods, particularly offensive military equipment, can be so used.

Q10. Are some military exports permitted to countries with bad human rights records?

A. The Canadian Government supports the right of nations to defend themselves against external aggression. What is objectionable to us is that equipment which should be used for such a purpose is turned against civilians within the country. Therefore, we are prepared to consider export

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permits for military goods to such countries where there is no reasonable risk that the goods would be used against the civilian population.

Q11. Is there a list of countries to which exports of military goods will be denied?

A. Firstly, the policy speaks of "closely controlling" exports of military goods to certain categories of countries. This means that such exports would generally be refused, but there may be extraordinary circumstances under which Ministers might wish to agree to an export.

It is not our intention to publish a list of countries which are affected by this policy. Such a list will be a Cabinet confidence. The identity of some countries is self-evident; that of others will be more sensitive. The list will be reviewed regularly. It is not desirable that the presence or absence of any country on a list such as this be a matter of public controversy. Canada is a trading nation, and this Government encourages trade in peaceful goods with all nations. We would be loath to see Canadian exporters cut out of certain markets for non-military goods, as a result of our decision about a country's human rights record.

Q12. Are export permits available under Access to Information?

A. Information supplied by export permit applicants is generally considered by these applicants to be commercially confidential, and when queried about release, they have claimed exemption under Section 20(1) of the Access to Information Act. Some have even indicated that the existence of their contracts is governed by the Official Secrets Act of the signatory country. The Minister has accepted these claims and respects their need to guard the relations between client and exporter as private.

The effectiveness of the export control system relies on frank and honest disclosure by the exporter in reporting his proposed exports to this Department, on the vigilance of officials administering the policy, and on forthright enforcement of the law.

Q13. What is the Government's policy regarding Canadian origin military equipment going through the United States to areas of conflict or of human rights abuse?

A. There is no export control on most goods (including military goods) going to the USA for final use or for further manufacturing in that country. If the Canadian exporter is aware that goods are only transiting the USA, then an export permit would be required, indicating the country of final destination.

Q14. How does this policy square with Canada's efforts towards arms control and disarmament? Will it not increase East/West tensions?

A. By the limitations which it places on certain destinations for exports of Canadian origin military goods, this policy supports the Government's commitment to arms control and disarmament. Through the priority accorded to meeting our requirements for national security and our alliance obligations for collective defence, this policy contributes to the balance of strategic deterrence, which is a cornerstone of arms control in an East/West context.