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REPORT OF THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS
respecting operations under the
EXPORT AND IMPORT PERMITS ACT
for the year 1985

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Dept. of External Affairs
Min. des Affaires extérieures
OTTAWA

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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 in 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, 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 1985 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 (Canadian Dairy Commission Act);
- Cheese of all types other than imitation cheese (Agricultural Stabilization Act) and (Canadian Dairy Commission Act);
- Dry buttermilk (Canadian Dairy Commission Act);
- Dry casein and caseinates (Canadian Dairy Commission Act);

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

iii) to support any action taken under the Meat Import Act:

- Beef and veal in fresh, chilled and frozen form except offal.

iv) 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 1985:

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 1985 was 3,037,722 dozen, representing 0.675% of the previous year's domestic production. The quotas for egg powder, and liquid or frozen eggs, were 418 474 kg and 1 129 539 kg respectively. While the basic quota is fixed, provision is made to issue import permits for eggs and egg products supplementary to the quota to meet overall Canadian market needs. During 1985 supplementary

permits were issued for 7 982 856 dz table eggs, 431 kg of egg powder and 513 468 kg of egg products, for market shortages. In addition, supplementary permits for 3 439 757 dz shell eggs were authorized for breaking and re-export.

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 1985 was 26 926 452 kg expressed as eviscerated weight. The quota level is set at 6.3% of the previous year's domestic production. While the basic quota is fixed, provision is made to issue import permits for chicken supplementary to the quota to meet overall Canadian market needs. During 1985 supplementary permits were issued for 2 219 485 kg of chicken for market shortage, 90 710 kg of chicken to compete with imported products containing chicken and 484 711 kg of chicken for re-export.

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 1985 was 2 005 846 kg eviscerated equivalent. The quota is set annually at 2% of the domestic production quota for that year. While the basic quota is fixed, provision is made for the issuance of import permits for turkey supplementary to the quota to meet overall Canadian market needs. During 1985 supplementary permits were issued for 2 263 867 kg of turkey for market shortages and for 1 588 kg of turkey for re-export.

Beef and Veal:

Item 20 (Beef and Veal) was placed on the ICL on December 21, 1984 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. The total import quota was set at 66 500 t, with 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. Following bilateral negotiations with the EEC the Community quota was subsequently increased to 10 668 t. During the year the Nicaraguan quota was also adjusted upwards to 1 783 t.

On May 24, 1985 high quality beef was excluded from import quotas by Order in Council P.C. 1985-613.

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 October 1, 1984 to September 30, 1985, the non-member quota was 108 300 kg of green coffee.

Sugar

The International Sugar Agreement of 1977 expired on December 31, 1984 and sugar was removed from the ICL on March 14, 1985 by Order in Council P.C. 1985-790.

Cheese

Under the authority of Section 5(1)(b) 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 and the Canadian Dairy Commission Act to support the price or that has the effect of supporting the price of cheese of all types.

The annual global cheese import quota for the year 1985 amounted to 45 000 000 lbs or 20 411 866 kg of which 60% was allocated to cheese importers from the then 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. International discussions on the future of the MFA beyond its July 31, 1986 expiry commenced during 1985 in the GATT Textiles Committee in Geneva.

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. 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 1985, a new bilateral restraint arrangement was negotiated with Bangladesh, bringing the total number of textile and clothing restraint arrangements to 22, all of which extend to December 31, 1986. Additional products were also added to the existing restraint arrangements in place with Brazil, Bulgaria, Indonesia, Malaysia, and Pakistan.

Order in Council P.C. 1985-3590, dated December 12, 1985, had the effect of deleting the reference to specific countries of origin in sub-item 29(1) of the Import Control List (cotton terry towels, washcloths and sets containing 50% or more by weight of cotton). This amendment, which extended the import permit requirement to imports of these products from all sources, was made in order to permit the implementation of additional bilateral restraint arrangements applicable to this item.

(c) Footwear

Following an enquiry by the Canadian Import Tribunal under Section 48 of the Special Import Measures Act, it was found that in the absence of special measures of protection imports of women's and girls' dress and casual footwear would likely cause injury to Canadian producers of like goods. The Government announced, effective December 1, 1985, a three-year extension of quotas on imports of women's and girls' dress and casual footwear from all sources. The quotas which had been in place on men's and boys' footwear, children's and infants' footwear, athletic/utility footwear and slippers were allowed to expire on November 30, 1985.

Order in Council P.C. 1985-3432, dated November 21, 1985, extended the quotas on women's and girls' dress and casual footwear for three years to November 30, 1988. The restraint levels for each of the three years are the level of imports of such goods between December 1, 1984 and November 30, 1985 plus 6% in the first year, plus another 8% in the second year, plus another 10% in the third year.

(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.

No changes were made in 1985 to the list of species 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 1985.

Import permits issued.....	231,395
Applications refused.....	1,239
Applications cancelled.....	9,413

All applications for permits required for specimens of endangered wild fauna or flora or derivatives appearing on the Import Control List 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.....	52
Applications refused.....	5
Applications withdrawn.....	4

Twenty-eight (28) permits were issued by the Canadian Wildlife Service for the importation of live specimens for zoos and for captive breeding purposes. Twenty-four (24) permits were issued for parts and derivatives.

Issuance of International Import 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-shipments of certain of the more advanced electronic goods as well as other sensitive military and strategic goods which are controlled internationally through the Co-ordinating Committee for Strategic Trade Controls (COCOM).

As a member of COCOM, Canada has recognized the necessity of this international control mechanism whereby the primary responsibility for controlling the movement of strategic commodities is transferred to the importing countries, as acknowledged by their issue of Import Certificates, and hence becomes subject to their export control regulations. A Delivery-Verification Certificate is required in support of certain imports and allows the importer to present evidence that a shipment has been delivered in accordance with the terms of the export licence and import certificate previously obtained.

The following is a statistical summary of certificates processed during 1985.

Import Certificates issued.....	2,127
Delivery-Verification Certificates issued.....	788

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.

The first of the above provisions relates to goods having a military or strategic nature or value which, if made available to certain destinations, might be used to the detriment of the security of Canada and its allies. For export control purposes, military and strategic goods have been broadly defined as follows:

- a) Military goods are systems or equipment specifically designed for military use. This includes offensive military equipment (system or device capable of enabling an attack to be delivered - e.g., combat aircraft, armed vehicle, arms and ammunition) as well as defensive military equipment (any other equipment when built to military specifications).
- b) Strategic goods are equipment of a commercial civilian nature that could have a military application, either directly (e.g., computers, telecommunication systems

and most civilian aircraft and associated equipment) or indirectly, as in the production of military equipment.

Issuance of Export Permits

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 only, i.e.: 1031 - sugars, syrups, and molasses, derived from sugar cane or sugar beets; 5664 - specialty steel products.

All of these reflect the export controls necessary to realize the objectives set out in the Act and, additionally (in the case of the Group 8 Items), represent an important instrument for the implementation of the Atomic Energy Control Act provisions. Prior to issuing export permits for Group 8 materials and equipment, the concurrence of the Atomic Energy Control Board must be obtained.

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 the ECL.

Area Control List

Section 13 of the Export and Import Permits 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."

The Area Control List (ACL) contains the following countries: Albania, Bulgaria, Czechoslovakia, German Democratic Republic and East Berlin, Hungary, Mongolia, Democratic People's Republic of Korea, Socialist Republic of Vietnam, Poland, Romania, Union of Soviet Socialist Republics. Shipments of all goods, whether they appear on the Export Control List or not, must be supported by an export permit when destined to countries designated in the ACL.

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 1985 relating to both the ECL and the ACL:

Export permits issued.....	8,127
Applications refused.....	45
Applications withdrawn.....	388
Export permits cancelled.....	39
Application pending as of Dec. 31, 1985.....	1,023

In addition, applications for permits required for any specimen of endangered wild fauna or flora or derivatives appearing on the Export Control List 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.....	922
Applications refused.....	3
Applications withdrawn.....	9

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.

(a) Export Controls Investigations Status for 1985

In 1985, a total of six hundred and forty-one (641) files were opened. Of these, four hundred and sixty-one (461) represent investigations initiated to establish whether the Export and Import Permits Act was violated, and one hundred and eighty (180) were assistance cases. The latter do not represent suspected offences and are

usually the result of inquiries or liaison work (e.g., with other countries' enforcement agencies, the Canadian Wildlife Federation, Revenue Canada (Customs & Excise), etc.). One hundred and eighteen (118) cases were cleared; five charges laid and two court cases were pending as of December 31, 1985. In addition, under Customs enforcement procedures, there were five hundred and one (501) detentions and thirteen seizures subject to adjudication.

(b) Import Controls Investigations Status for 1985

There were twelve cases of suspected violations resulting in four convictions and fines totalling \$64,000. In three cases investigations were terminated due to insufficient evidence. As of December 31, 1985 five cases are still under investigation.

