

Export and Import Permits Act

CHAPTER E-19

An Act respecting the export and import of strategic and other goods

SHORT TITLE

Short title

1. This Act may be cited as the *Export and Import Permits Act*.
R.S., c. E-17, s. 1.

INTERPRETATION

Definitions

2. (1) In this Act,

"Area Control List" «*liste des pays visés*»

"Area Control List" means a list of countries established under section 4;

"Automatic Firearms Country Control List" «*liste des pays désignés (armes automatiques)*»

"Automatic Firearms Country Control List" means a list of countries established under section 4.1;

"CCFTA" «*ALÉCC*»

"CCFTA" has the same meaning as "Agreement" in subsection 2(1) of the *Canada-Chile Free Trade Agreement Implementation Act*;

"CCRFTA" «*ALÉCCR*»

"CCRFTA" has the same meaning as "Agreement" in subsection 2(1) of the *Canada--Costa Rica Free Trade Agreement Implementation Act*;

"Chile" «*Chili*»

"Chile" has the same meaning as in subsection 2(1) of the *Customs Tariff*;

"CIFTA" «*ALÉCI*»

"CIFTA" has the same meaning as "Agreement" in subsection 2(1) of the *Canada-Israel Free Trade Agreement Implementation Act*;

"Costa Rica" «*Costa Rica*»

"Costa Rica" has the same meaning as in subsection 2(1) of the *Customs Tariff*;

"Export Control List" «*liste des marchandises d'exportation contrôlée*»

"Export Control List" means a list of goods established under section 3;

"Free Trade Agreement" [Repealed, 1997, c. 14, s. 70]

"free trade partner" «*partenaire de libre-échange*»

"free trade partner" means

- (a) a NAFTA country,
- (b) Chile, or

(c) Israel or another CIFTA beneficiary;

"goods imported from a NAFTA country" [Repealed, 1997, c. 14, s. 70]

"goods imported from Israel or another CIFTA beneficiary" [Repealed, 1997, c. 36, s. 207]

"import allocation" « *autorisation d'importation* »

"import allocation" means an allocation issued pursuant to subsection 6.2(2);

"Import Control List" « *liste des marchandises d'importation contrôlée* »

"Import Control List" means a list of goods established under section 5;

"imported from Israel or another CIFTA beneficiary" « *importé d'Israël ou d'un autre bénéficiaire de l'ALÉCI* »

"imported from Israel or another CIFTA beneficiary" has the meaning assigned by regulations made under section 52 of the *Customs Tariff*;

"Israel or another CIFTA beneficiary" « *Israël ou autre bénéficiaire de l'ALÉCI* »

"Israel or another CIFTA beneficiary" has the same meaning as in subsection 2(1) of the *Customs Tariff*;

"Minister" « *ministre* »

"Minister" means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act;

"NAFTA" « *ALÉNA* »

"NAFTA" has the meaning assigned to the word "Agreement" by subsection 2(1) of the *North American Free Trade Agreement Implementation Act*;

"NAFTA country" « *pays ALÉNA* »

"NAFTA country" has the meaning assigned to the expression "NAFTA country" by subsection 2(1) of the *North American Free Trade Agreement Implementation Act*;

"resident of Canada" « *résident du Canada* »

"resident of Canada" means, in the case of a natural person, a person who ordinarily resides in Canada and, in the case of a corporation, a corporation having its head office in Canada or operating a branch office in Canada;

"World Trade Organization Agreement" « *Accord sur l'Organisation mondiale du commerce* »

"World Trade Organization Agreement" has the same meaning as the word "Agreement" in subsection 2(1) of the *World Trade Organization Agreement Implementation Act*.

Goods imported from a NAFTA country, Chile or Costa Rica

(2) For the purposes of this Act, goods are imported from a NAFTA country, from Chile or from Costa Rica if they are shipped directly to Canada from the NAFTA country, from Chile or from Costa Rica, as the case may be, within the meaning of sections 17 and 18 of the *Customs Tariff*.

R.S., 1985, c. E-19, s. 2; 1988, c. 65, s. 116; 1991, c. 28, s. 1; 1993, c. 44, s. 146; 1994, c. 47, s. 100; 1996, c. 33, s. 57; 1997, c. 14, s. 70, c. 36, s. 207; 2001, c. 28, s. 47.

ESTABLISHMENT OF CONTROL LISTS

Export control list of goods

3. The Governor in Council may establish a list of goods, to be called an Export Control List, including therein any article the export of which the Governor in Council deems it necessary to control for any of the following purposes:

(a) 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;

(b) 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;

(c) 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;

(c.1) [Repealed, 1999, c. 31, s. 88]

(d) to implement an intergovernmental arrangement or commitment;

(e) to ensure that there is an adequate supply and distribution of the article in Canada for defence or other needs; or

(f) 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.

R.S., 1985, c. E-19, s. 3; R.S., 1985, c. 12 (3rd Supp.), s. 26; 1999, c. 31, s. 88.

3.1 [Repealed, 1999, c. 31, s. 89]

Export control list of countries

4. The Governor in Council may establish a list of countries, to be called an Area Control List, including therein any country to which the Governor in Council deems it necessary to control the export of any goods.

R.S., c. E-17, s. 4.

Automatic Firearms Country Control List

4.1 The Governor in Council may establish a list of countries, to be called an Automatic Firearms Country Control List, including therein only countries with which Canada has an intergovernmental defence, research, development and production arrangement and to which the Governor in Council deems it appropriate to permit the export of

(a) a prohibited firearm described in paragraph (c) or (d) of the definition "prohibited firearm" in subsection 84(1) of the *Criminal Code*,

(b) a prohibited weapon described in paragraph (b) of the definition "prohibited weapon" in subsection 84(1) of the *Criminal Code*, or

(c) a prohibited device described in paragraph (a) or (d) of the definition "prohibited device" in subsection 84(1) of the *Criminal Code*,

or any component or part of any such thing, that is included in an Export Control List.

1991, c. 28, s. 2; 1995, c. 39, s. 171.

Definitions

4.2 (1) In section 5,

"contribute importantly" « *contribuer de manière importante* »

"contribute importantly", in respect of goods imported from a NAFTA country or from Chile, means to be an important cause, but not necessarily the most important cause;

"serious injury" « *dommage grave* »

"serious injury" means, in relation to domestic producers of like or directly competitive goods, a significant overall impairment in the position of the domestic producers;

"surge" « *augmentation subite* »

"surge", in respect of goods imported from a NAFTA country or from Chile, has the meaning given that word by Article 805 of NAFTA or Article F-05 of CCFTA, as the case may be;

"threat of serious injury" « *menace de dommage grave* »

"threat of serious injury" means serious injury that, on the basis of facts, and not merely of allegation, conjecture or remote possibility, is clearly imminent.

Application of definition in regulations

(2) Any regulations made under paragraph 40(b) of the *Canadian International Trade Tribunal Act* defining "like or directly competitive goods" apply for the purposes of sections 5 and 5.4. 1994, c. 47, s. 102; 1996, c. 33, s. 58; 1997, c. 14, s. 71; 2002, c. 19, s. 12.

Import control list of goods

5. (1) The Governor in Council may establish a list of goods, to be called an Import Control List, including therein any article the import of which the Governor in Council deems it necessary to control for any of the following purposes:

(a) 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 in Canada or is subject to governmental controls in the countries of origin or to allocation by intergovernmental arrangement;

(b) to restrict, for the purpose of supporting any action taken under the *Farm Products Marketing Agencies 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;

(c) [Repealed, 1994, c. 47, s. 220]

(c.1) to restrict the importation of arms, ammunition, implements or munitions of war, army, naval or air stores, or any articles deemed capable of being converted thereinto or made useful in the production thereof;

(d) to implement an action taken under the *Agricultural Marketing Programs Act* or the *Canadian Dairy Commission Act*, with the object or effect of supporting the price of the article;

(e) to implement an intergovernmental arrangement or commitment; or

(f) to prevent the frustration or circumvention of the Agreement on Textiles and Clothing in Annex 1A of the World Trade Organization Agreement by the importation of goods that are like or directly competitive with goods to which the Agreement on Textiles and Clothing applies.

Statement or summary to be laid before Parliament

(2) Where any goods are included in the Import Control List for the purpose of ensuring supply or distribution of goods subject to allocation by intergovernmental arrangement or for the purpose of implementing an intergovernmental arrangement or commitment, a statement of the effect or a summary of the arrangement or commitment, if it has not previously been laid before Parliament, shall be laid before Parliament not later than fifteen days after the order of the Governor in Council including those goods in the Import Control List is published in the *Canada Gazette* pursuant to the *Statutory Instruments Act* or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.

Addition to Import Control List

(3) Where at any time it appears to the satisfaction of the Governor in Council, on a report of the Minister made pursuant to an inquiry made by the Canadian International Trade Tribunal under section 20 or 26 of the *Canadian International Trade Tribunal Act*, that goods of any kind are being imported or are likely to be imported into Canada at such prices, in such quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive goods, any goods of the same kind may, by order of the Governor in Council, be included on the Import Control List, for the purpose of limiting the importation of such goods to the extent and, subject to subsection (7), for the period that in the opinion of the Governor in Council is necessary to prevent or remedy the injury.

Prohibition against further orders

(3.1) No order may be made under subsection (3) with respect to goods that have already been the subject of an order made under that subsection or subsection 55(1) of the *Customs Tariff* unless, after the expiry of the order and any related orders made under subsection (3.2) or (4.1) or under section 60 or subsection 63(1) of the *Customs Tariff*, there has elapsed a period equal to the greater of two years and the total period during which the order or orders were in effect.

Extension order

(3.2) The Governor in Council may, on the recommendation of the Minister, make an extension order including on the Import Control List any goods with respect to which an order has been made under this subsection or subsection (3) or (4.1) or under subsection 55(1), section 60 or subsection

63(1) of the *Customs Tariff* if, at any time before the order expires, it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under section 30.07 of the *Canadian International Trade Tribunal Act*, that

- (a) an order continues to be necessary to prevent or remedy serious injury to domestic producers of like or directly competitive goods; and
- (b) there is evidence that the domestic producers are adjusting, as determined in accordance with any regulations made under paragraph 40(b) of the *Canadian International Trade Tribunal Act*.

Period and revocation of extension orders

(3.3) Every extension order made under subsection (3.2) shall, subject to this section, remain in effect for the period that is specified in the order, but the total of the specified period and the periods during which the goods were previously subject to any related orders made under subsection (3), (3.2) or (4.1) or under subsection 55(1), section 60 or subsection 63(1) of the *Customs Tariff* shall not exceed eight years.

Exception for goods imported from a free trade partner

(4) Notwithstanding subsections (3) and (3.2), an order made under those subsections may apply to goods imported from a free trade partner only if it appears to the satisfaction of the Governor in Council, on a report of the Minister made on the basis of an inquiry under section 20, 26 or 30.07 of the *Canadian International Trade Tribunal Act*, that

- (a) the quantity of those goods represents a substantial share of the quantity of goods of the same kind imported into Canada from all countries;
- (b) in the case of goods imported from a NAFTA country, the quantity of those goods, alone or, in exceptional circumstances, together with the quantity of goods of the same kind imported from each other NAFTA country, contributes importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods; and
- (c) in the case of goods imported from any other free trade partner, the quantity of those goods contributes importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods.

(4.01) to (4.05) [Repealed, 1997, c. 14, s. 72]

New order with respect to goods imported from a free trade partner

(4.1) If an order has been made under subsection (3) or (3.2) that does not, by virtue of subsection (4), apply to goods imported from a free trade partner and it appears to the satisfaction of the Governor in Council, on a report of the Minister made on the basis of an inquiry under section 30.01 or 30.011 of the *Canadian International Trade Tribunal Act*, that

- (a) there has been a surge of like goods imported from that free trade partner on or after the coming into force of the order, and
 - (b) as a result of the surge, the effectiveness of the order is being undermined,
- any goods of the same kind imported into Canada from that free trade partner may, by order of the Governor in Council, be included on the Import Control List for the purpose of limiting their importation to prevent the undermining of the effectiveness of the order made under subsection (3) or (3.2).

Order to specify

(4.2) An order made under subsection (3) or (3.2) must state whether it applies to goods imported from a free trade partner.

Addition to Import Control List

(4.3) If at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to goods imported from a free trade partner, the Governor in Council may, by order, include those goods on the Import Control List in order to facilitate the collection of that information if those goods are goods

- (a) to which an order made under subsection (3) or (3.2) does not apply by virtue of subsection (4);
- or
- (b) to which an order made under subsection 55(1) or 63(1) of the *Customs Tariff* does not apply because the goods did not meet the conditions set out in subsection 59(1) or 63(4) of that Act.

Revocation or amendment of inclusion order

(4.4) If at any time it appears to the satisfaction of the Governor in Council that an order including any goods on the Import Control List under subsection (3), (3.2) or (4.1) should be revoked or amended, the Governor in Council may, on the recommendation of the Minister, by order, revoke the order or amend it.

(4.5) to (4.92) [Repealed, 1997, c. 14, s. 72]

Addition to Import Control List

(5) Where at any time it appears to the satisfaction of the Governor in Council on a report of the Minister made as described in subsection (3) that goods of any kind are being imported or are likely to be imported into Canada at such prices, in such quantities and under such conditions as to make it advisable to collect information with respect to the importation of those goods in order to ascertain whether the importation is causing or threatening injury to domestic producers of like or directly competitive goods, any goods of the same kind may, by order of the Governor in Council, be included on the Import Control List in order to facilitate the collection of that information.

Addition to Import Control List

(6) If, for the purpose of facilitating the implementation of action taken under subsection 14(2), section 35, 39 or 43, paragraph 53(2)(d), subsection 55(1), section 60 or subsection 63(1) or 82(1) of the *Customs Tariff*, the Governor in Council considers it necessary to control the importation of any goods or collect information with respect to their importation, the Governor in Council may, by order, include those goods on the Import Control List for that purpose.

Goods deemed to be removed from List

(7) Where goods are included on the Import Control List by order of the Governor in Council under subsection (3), (5) or (6), the goods shall be deemed to be removed from that List

- (a) on the expiration of the period of four years after the day on which they are included on the List by the order; or
- (b) if the order specifies a day prior to the expiration of the period referred to in paragraph (a) on which they shall be deemed to be removed from that List, on the day specified in the order.

(7.1) and (7.2) [Repealed, 1997, c. 14, s. 72]

Goods imported from a free trade partner

(8) If goods imported from a free trade partner are included on the Import Control List by order of the Governor in Council under subsection (4.1) or (4.3), the goods are deemed to be removed from that List on the earlier of

- (a) the day specified in the order, and
- (b) the day on which
 - (i) in the case of an order under subsection (4.1) or under subsection (4.3) in respect of goods referred to in paragraph (4.3)(a), goods of the same kind imported from any other country that were included on that List by an order made under subsection (3) are removed from that List, and
 - (ii) in the case of an order under subsection (4.3) in respect of goods referred to in paragraph (4.3)(b), the order under subsection 55(1) or 63(1) of the *Customs Tariff* that applies to goods of the same kind imported from any other country ceases to have effect.

(9) [Repealed, 1997, c. 14, s. 72]

R.S., 1985, c. E-19, s. 5; R.S., 1985, c. 1 (2nd Supp.), s. 213, c. 41 (3rd Supp.), s. 127, c. 47 (4th Supp.), s. 52; 1988, c. 65, s. 117; 1993, c. 34, s. 67, c. 44, s. 147; 1994, c. 47, ss. 103, 220; 1996, c. 33, s. 59; 1997, c. 14, s. 72, c. 20, s. 54, c. 36, s. 208.

Addition to Export Control List or Import Control List

5.1 (1) Where at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the exportation or importation of a certain type of steel or a certain product made of steel that is, in the opinion of the Minister, traded in world markets in circumstances of surplus supply and depressed prices and where a significant proportion of world trade in that type of steel or that product is subject to control through the use of non-tariff measure, the Governor in Council may, by order, include, subject to subsection (2), that type of steel or that product

on the Export Control List or the Import Control List or on both for the purpose of facilitating the collection of that information.

Deemed removal from List

(2) Where any type of steel or any product has been included on the Export Control List or the Import Control List by order of the Governor in Council under subsection (1), that type of steel or that product shall be deemed to be removed from the applicable List on the expiration of the period of three years from the day on which it was included on that List or on such day prior to the expiration of that period as may be specified in the order.

Tabling of statistical summary in Parliament

(3) The Minister shall, as soon as possible after the end of each calendar year, prepare a statistical summary of any information collected during that year pursuant to subsection (1) and shall cause a copy of that summary to be laid before each House of Parliament forthwith on the completion thereof or, if either House of Parliament is not then sitting, on any of the first fifteen days next thereafter that it is sitting.

R.S., 1985, c. 13 (3rd Supp.), s. 1.

5.11 [Repealed, 1997, c. 14, s. 73]

Addition to Export Control List or Import Control List

5.2 (1) If at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the exportation or importation of any goods in respect of which a specified quantity is eligible each year for the rate of duty provided for in the Schedules to Annex 302.2 of NAFTA in accordance with Appendix 6 of Annex 300-B of NAFTA, for the rate of duty provided for in the Schedules to Annex C-02.2 of CCFTA in accordance with Appendix 5.1 of Annex C-00-B of CCFTA or for the rate of duty provided for in the Schedule to Annex III.3.1 of CCRFTA in accordance with Appendix III.1.6.1 of Annex III.1 of CCRFTA, as the case may be, the Governor in Council may, by order and without reference to that quantity, include those goods on the Export Control List or the Import Control List, or on both, in order to facilitate the collection of that information.

Addition to Import Control List

(2) If at any time it appears to the satisfaction of the Governor in Council that, for the purposes of implementing NAFTA, CCFTA or CCRFTA it is advisable to collect information with respect to the importation into Canada of any goods listed in Appendix 1.1 of Annex 300-B of NAFTA, in Appendix 1.1 of Annex C-00-B of CCFTA or in Appendix III.1.1.1 of Annex III.1 of CCRFTA as the case may be, the Governor in Council may, by order, include those goods on the Import Control List in order to facilitate the collection of that information.

Addition to Import Control List

(3) If at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation of any goods in respect of which a specified quantity is eligible for any reduction of customs duty under subsection 49(1) of the *Customs Tariff* or a reduction of the rate of customs duty under subsection 74(3) of that Act, the Governor in Council may, by order and without reference to that quantity, include those goods on the Import Control List in order to facilitate the collection of that information.

1988, c. 65, s. 118; 1997, c. 14, s. 73, c. 36, s. 209; 2001, c. 28, s. 48.

Addition to Import Control List to implement Agreement on Agriculture

5.3 Where at any time it appears to the satisfaction of the Governor in Council that, for the purpose of implementing the Agreement on Agriculture in Annex 1A of the World Trade Organization Agreement, it is advisable to control the importation of goods or collect information with respect to the importation of goods, the Governor in Council may, by order, include the goods on the Import Control List.

1994, c. 47, s. 104.

Definitions

5.4 (1) The following definitions apply in this section.

"action" « *mesure* »

"action" means

- (a) any action, including a provisional action, taken
- (i) by the People's Republic of China to prevent or remedy market disruption in a WTO Member other than Canada, or
- (ii) by a WTO Member other than Canada to withdraw concessions under the World Trade Organization Agreement or otherwise to limit imports to prevent or remedy market disruption in that Member caused or threatened by the importation of goods originating in the People's Republic of China; or
- (b) any combination of actions referred to in paragraph (a).

"market disruption" « *désorganisation du marché* »

"market disruption" means a rapid increase in the importation of goods that are like or directly competitive with goods produced by a domestic industry, in absolute terms or relative to the production of those goods by a domestic industry, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.

"significant cause" « *cause importante* »

"significant cause" means, in respect of a material injury or threat thereof, an important cause that need not be as important as, or more important than, any other cause of the material injury or threat.

"WTO Member" « *membre de l'OMC* »

"WTO Member" means a Member of the World Trade Organization established by Article I of the Agreement Establishing the World Trade Organization, signed at Marrakesh on April 15, 1994.

Addition to Import Control List -- market disruption

(2) If at any time it appears to the satisfaction of the Governor in Council, on a report of the Minister made pursuant to an inquiry made by the Canadian International Trade Tribunal under section 30.21 or 30.22 of the *Canadian International Trade Tribunal Act*, that goods originating in the People's Republic of China are being imported or are likely to be imported into Canada in such increased quantities or under such conditions that they cause or threaten to cause market disruption to domestic producers of like or directly competitive goods, those goods may, by order of the Governor in Council, be included on the Import Control List, for the purpose of limiting the importation of such goods to the extent and for the period that in the opinion of the Governor in Council is necessary to prevent or remedy the market disruption.

Addition to Import Control List -- trade diversion

(3) If at any time it appears to the satisfaction of the Governor in Council, on a report of the Minister made pursuant to an inquiry made by the Canadian International Trade Tribunal under section 30.21 or 30.23 of the *Canadian International Trade Tribunal Act*, that an action causes or threatens to cause a significant diversion of trade into the domestic market in Canada, any goods originating in the People's Republic of China may, by order of the Governor in Council, be included on the Import Control List, for the purpose of limiting the importation of such goods to the extent that is necessary to prevent or remedy the trade diversion.

Extension order

(4) The Governor in Council may, on the recommendation of the Minister, make an extension order including on the Import Control List any goods with respect to which an order has been made under this subsection or subsection (2) or under section 77.1 or 77.3 of the *Customs Tariff* if, at any time before the order expires, it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under subsection 30.25(7) of the *Canadian International Trade Tribunal Act*, that an order continues to be necessary to prevent or remedy market disruption to domestic producers of like or directly competitive goods.

Repeal or amendment of inclusion order

(5) If at any time it appears to the satisfaction of the Governor in Council that an order including any goods on the Import Control List under subsection (2), (3) or (4) should be repealed or amended,

the Governor in Council may, on the recommendation of the Minister, by order, repeal or amend the order.

Addition to Import Control List

(6) If at any time it appears to the satisfaction of the Governor in Council, on a report of the Minister made as described in subsection (2), that goods originating in the People's Republic of China are being imported or are likely to be imported into Canada at such prices, in such quantities or under such conditions as to make it advisable to collect information with respect to the importation of those goods in order to ascertain whether the importation is causing or threatening to cause market disruption to domestic producers of like or directly competitive goods, those goods may, by order of the Governor in Council, be included on the Import Control List in order to facilitate the collection of that information.

Addition to Import Control List

(7) If at any time it appears to the satisfaction of the Governor in Council, on a report of the Minister made as described in subsection (3), that an action causes or threatens to cause a significant diversion of trade into the domestic market in Canada so as to make it advisable to collect information with respect to goods originating in the People's Republic of China in order to ascertain whether the action causes or threatens to cause a significant diversion of trade into the domestic market in Canada, those goods may, by order of the Governor in Council, be included on the Import Control List in order to facilitate the collection of that information.

Addition to Import Control List

(8) If, for the purpose of facilitating the implementation of an order made under section 77.1, 77.3 or 77.6 of the *Customs Tariff*, the Governor in Council considers it necessary to control the importation of goods originating in the People's Republic of China or collect information with respect to their importation, the Governor in Council may, by order, include those goods on the Import Control List for that purpose.

Goods deemed to be removed from List

(9) If goods are included on the Import Control List by order of the Governor in Council under subsection (8), the goods shall be deemed to be removed from that List on the earlier of

- (a) the day, if any, specified in that order, and
- (b) the day on which the order made under section 77.1, 77.3 or 77.6 of the *Customs Tariff* ceases to have effect or is repealed pursuant to section 77.2, 77.3 or 77.4 of that Act, as the case may be.

Expiry date

(10) Subsections (1) to (9) cease to have effect on December 11, 2013.
2002, c. 19, s. 13.

Amendment of lists

6. The Governor in Council may revoke, amend, vary or re-establish any Area Control List, Automatic Firearms Country Control List, Export Control List or Import Control List.
R.S., 1985, c. E-19, s. 6; 1991, c. 28, s. 3.

BILATERAL EMERGENCY MEASURES: TEXTILE AND APPAREL GOODS

Definition of "originating goods"

6.1 (1) In this section, "originating goods" means goods that are entitled under the *Customs Tariff* to the United States Tariff, the Mexico Tariff, the Mexico--United States Tariff, the Chile Tariff or the Costa Rica Tariff.

When Minister may take measures

(2) If at any time it appears to the satisfaction of the Minister that any goods that are referred to in paragraph (a) or (b) and are not originating goods are being imported from a NAFTA country, from Chile or from Costa Rica, as the case may be, in such increased quantities, measured in absolute terms or relative to the domestic market, and under such conditions as to cause serious damage or actual

threat of serious damage to domestic producers of like or directly competitive goods, the Minister may take the measures set out

- (a) in the case of goods listed in Appendix 1.1 of Annex 300-B of NAFTA that are imported from a NAFTA country, in section 5 of that Annex in relation to those goods;
- (b) in the case of goods listed in Appendix 1.1 of Annex C-00-B of CCFTA that are imported from Chile, in section 4 of that Annex in relation to those goods; and
- (c) in the case of goods listed in Appendix III.1.1.1 of Annex III.1 of CCRFTA that are imported from Costa Rica, in section 5 of that Annex in relation to those goods.

Factors to be considered

(3) In determining whether the conditions referred to in subsection (2) exist, the Minister shall have regard to paragraph 2 of section 4 of Annex 300-B of NAFTA, paragraph 2 of section 3 of Annex C-00-B of CCFTA or paragraph 2 of section 4 of Annex III.1 of CCRFTA, as the case may be. 1993, c. 44, s. 149; 1994, c. 47, s. 105(F); 1997, c. 14, s. 74, c. 36, s. 210; 2001, c. 28, s. 49.

IMPORT ACCESS

Determination of quantities

6.2 (1) Where any goods have been included on the Import Control List for the purpose of implementing an intergovernmental arrangement or commitment, the Minister may determine import access quantities, or the basis for calculating them, for the purposes of subsection (2) and section 8.3 of this Act and for the purposes of the *Customs Tariff*.

Allocation method

- (2) Where the Minister has determined a quantity of goods under subsection (1), the Minister may
 - (a) by order, establish a method for allocating the quantity to residents of Canada who apply for an allocation; and
 - (b) issue an allocation to any resident of Canada who applies for the allocation, subject to the regulations and any terms and conditions the Minister may specify in the allocation.

Transfer of allocation

(3) The Minister may consent to the transfer of an import allocation from one resident of Canada to another. 1994, c. 47, s. 106.

PERMITS AND CERTIFICATES

Export permits

7. (1) Subject to subsection (2), the Minister may issue to any resident of Canada applying therefor a permit to export goods included in an Export Control List or goods 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.

General permits

(1.1) Notwithstanding subsection (1), the Minister may, by order, issue generally to all residents of Canada a general permit to export to any country specified in the permit any goods included on the Export Control List that are specified in the permit, subject to such terms and conditions as are described in the permit.

Export permit for automatic firearm

- (2) The Minister may not issue a permit under subsection (1) to export any thing referred to in any of paragraphs 4.1(a) to (c), or any component or part of such a thing, that is included in an Export Control List unless
 - (a) the export is to a country included in an Automatic Firearms Country Control List; and

(b) the prohibited weapon or component or part thereof is exported to the government of, or a consignee authorized by the government of, that country.

R.S., 1985, c. E-19, s. 7; 1991, c. 28, s. 3; 1994, c. 47, s. 107; 1995, c. 39, s. 172.

Import permits

8. (1) The Minister may 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.

General permits

(1.1) Notwithstanding subsection (1), the Minister may, by order, issue generally to all residents of Canada a general permit to import any goods included on the Import Control List that are specified in the permit, subject to such terms and conditions as are described in the permit.

Import permits

(2) Notwithstanding subsection (1) and any regulation made under section 12 that is not compatible with the purpose of this subsection, if goods are included on the Import Control List solely for the purpose of collecting information pursuant to subsection 5(4.3), (5) or (6) or 5.4(6), (7) or (8), the Minister shall issue to any resident of Canada applying therefor a permit to import those goods, subject only to compliance with and the application of any regulations made under section 12 that it is reasonably necessary to comply with or apply in order to achieve that purpose.

(2.1) and (2.2) [Repealed, 1997, c. 14, s. 75]

Goods imported from a free trade partner

(3) If an order has been made under subsection 5(3) or (3.2) that applies, by virtue of subsection 5(4), to goods imported from a free trade partner, or an order has been made under subsection 5(4.1), the Minister shall, in determining whether to issue a permit under this section, be guided by subparagraph 5(b) of Article 802 of NAFTA, subparagraph 5(b) of Article F-02 of CCFTA or subparagraph 5(b) of Article 4.6 of CIFTA, as the case may be.

(4) [Repealed, 1997, c. 14, s. 75]

R.S., 1985, c. E-19, s. 8; 1988, c. 65, s. 119; 1993, c. 44, s. 150; 1994, c. 47, s. 108; 1996, c. 33, s. 60; 1997, c. 14, s. 75; 2002, c. 19, s. 14.

Import and export permits

8.1 Notwithstanding section 7, subsection 8(1) and any regulation made pursuant to section 12 that is not compatible with the purpose of this section, where a certain type of steel or a product made of steel is included on the Export Control List or the Import Control List solely for the purpose described in subsection 5.1(1), the Minister shall issue to any resident of Canada applying therefor a permit to export or import, as the case may be, that type of steel or that product, subject only to compliance with and the application of such regulations made pursuant to section 12 as it is reasonably necessary to comply with or apply in order to achieve that purpose.

R.S., 1985, c. 13 (3rd Supp.), s. 2.

Minister to issue permit

8.2 Notwithstanding section 7, subsection 8(1) and any regulation made pursuant to section 12 that is not compatible with the purpose of this section, if goods are included on the Export Control List or the Import Control List solely for the purpose described in subsection 5.2(1), (2) or (3), the Minister shall issue to any resident of Canada applying therefor a permit to export or import, as the case may be, those goods, subject only to compliance with and the application of such regulations made under section 12 as it is reasonably necessary to comply with or apply in order to achieve that purpose.

1988, c. 65, s. 120; 1993, c. 44, s. 151; 1997, c. 14, s. 76.

Import permits -- allocation

8.3 (1) Notwithstanding subsection 8(1), where goods have been included on the Import Control List for the purpose of implementing an intergovernmental arrangement or commitment and the Minister has determined an import access quantity for the goods pursuant to subsection 6.2(1), the

Minister shall issue a permit to import those goods to any resident of Canada who has an import allocation for the goods and applies for the permit, subject only to compliance with and the application of such regulations made pursuant to section 12 as it is reasonably necessary to comply with or apply in order to achieve that purpose.

Import permits -- no allocation

(2) Notwithstanding subsection 8(1), where goods have been included on the Import Control List for the purpose of implementing an intergovernmental arrangement or commitment and the Minister has determined an import access quantity for the goods pursuant to subsection 6.2(1), but has not issued import allocations for the goods, the Minister shall

(a) if in the opinion of the Minister the import access quantity has not been exceeded, issue a permit to import those goods to any resident of Canada who applies for the permit, or

(b) issue generally to all residents of Canada a general permit to import those goods, subject only to compliance with and the application of such regulations made pursuant to section 12 as it is reasonably necessary to comply with or apply in order to achieve that purpose.

Supplemental import permits

(3) Notwithstanding subsection 8(1) and subsections (1) and (2) of this section, where goods have been included on the Import Control List and the Minister has determined an import access quantity for the goods pursuant to subsection 6.2(1), the Minister may issue

(a) a permit to import those goods in a supplemental quantity to any resident of Canada who applies for the permit, or

(b) generally to all residents of Canada a general permit to import those goods in a supplemental quantity,

subject to such terms and conditions as are described in the permit or in the regulations.

1994, c. 47, s. 109.

Import certificates

9. The Minister may, in order to facilitate 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.

R.S., c. E-17, s. 9.

9.01 [Repealed, 1997, c. 14, s. 77]

Minister may issue certificate

9.1 The Minister may, for the purpose of implementing an intergovernmental arrangement with a NAFTA country respecting the administration of Appendix 6 to Annex 300-B of NAFTA, with Chile respecting the administration of Appendix 5.1 to Annex C-00-B of CCFTA or with Costa Rica respecting the administration of Appendix III.1.6.1 to Annex III.1 of CCRFTA, issue a certificate with respect to an exportation of goods to the NAFTA country, to Chile or to Costa Rica, as the case may be, stating the specific quantity of those goods that

(a) in the case of an exportation of goods to the NAFTA country, on importation into the NAFTA country is eligible for the rate of duty provided for in the Schedules to Annex 302.2 of NAFTA in accordance with Appendix 6 to Annex 300-B of NAFTA;

(b) in the case of an exportation of goods to Chile, on importation into Chile is eligible for the rate of duty provided for in the Schedules to Annex C-02.2 of CCFTA in accordance with Appendix 5.1 to Annex C-00-B of CCFTA; and

(c) in the case of an exportation of goods to Costa Rica, on importation into Costa Rica is eligible for the rate of duty provided for in the Schedules to Annex III.3.1 of CCRFTA in accordance with Appendix III.1.6.1 to Annex III.1 of CCRFTA.

1988, c. 65, s. 121; 1997, c. 14, s. 77; 2001, c. 28, s. 50.

Minister may issue certificate

9.2 For the purpose of implementing an intergovernmental arrangement with any country or customs territory respecting the administration of any limitation imposed on the quantity of goods that may be imported into that country or customs territory in any period, the Minister may issue to any resident of Canada who applies, a certificate with respect to an exportation of the goods to the country

or customs territory stating the specific quantity of the goods in the shipment in respect of which the certificate is issued that, on importation into the country or customs territory, is eligible for the benefit provided for goods imported within that limitation.

1994, c. 47, s. 110.

Alteration of permits, etc.

10. (1) Subject to subsection (3), the Minister may amend, suspend, cancel or reinstate any permit, import allocation, certificate or other authorization issued or granted under this Act.

Alteration of permits, etc.

(2) If a permit has been issued under this Act to any person for the exportation or importation of goods that have been included on the Export Control List or the Import Control List solely for the purpose described in subsection 5(4.3), (5) or (6), 5.1(1), 5.2(1), (2) or (3) or 5.4(6), (7) or (8), and

(a) the person furnished, in or in connection with his application for the permit, information that was false or misleading in a material particular,

(b) the Minister has, subsequent to the issuance of the permit and on the application of the person, issued to the person under this Act another permit for the exportation or the importation of the same goods,

(c) the goods have, subsequent to the issuance of the permit, been included on the Export Control List or the Import Control List for a purpose other than that described in subsection 5(4.3), (5) or (6), 5.1(1), 5.2(1), (2) or (3) or 5.4(6), (7) or (8),

(d) it becomes necessary or desirable to correct an error in the permit, or

(e) the person agrees to the amendment, suspension or cancellation of the permit,

the Minister may amend, suspend or cancel the permit, as is appropriate in the circumstances.

Idem

(3) Except as provided in subsection (2), the Minister shall not amend, suspend or cancel a permit that has been issued under this Act in the circumstances described in that subsection unless to do so would be compatible with the purpose of subsection 8(2) or section 8.1 or 8.2, namely, that permits to export or to import goods that have been included on the Export Control List or the Import Control List in those circumstances be issued as freely as possible to persons wishing to export or import those goods and with no more inconvenience to those persons than is necessary to achieve the purpose for which the goods were placed on that List.

R.S., 1985, c. E-19, s. 10; R.S., 1985, c. 13 (3rd Supp.), s. 3; 1988, c. 65, s. 122; 1993, c. 44, s. 153; 1994, c. 47, s. 111; 1996, c. 33, s. 61; 1997, c. 14, s. 78; 2002, c. 19, s. 15.

Other lawful obligations not affected by permit, etc.

11. A permit, certificate or other authorization issued or granted under this Act does not affect the obligation of any person to obtain any licence, permit or certificate to export or import that may be required under this or any other law or to pay any tax, duty, toll, impost or other sum required by any law to be paid in respect of the exportation or importation of goods.

R.S., c. E-17, s. 11.

REGULATIONS

Regulations

12. The Governor in Council may make regulations

(a) prescribing the information and undertakings to be furnished by applicants for permits, import allocations, certificates or other authorizations under this Act, the procedure to be followed in applying for and issuing or granting permits, import allocations, certificates or other authorizations, the duration thereof, and the terms and conditions, including those with reference to shipping or other documents, on which permits, import allocations, certificates or other authorizations may be issued or granted under this Act;

(a.1) respecting the considerations that the Minister must take into account when deciding whether to issue an import allocation or consent to its transfer;

(b) respecting information to be supplied by persons to whom permits, import allocations, certificates or other authorizations have been issued or granted under this Act and any other matter associated with their use;

(c) respecting the issue of, and conditions or requirements applicable to, general permits or general certificates;

(c.01) [Repealed, 1999, c. 31, s. 90]

(c.02) respecting the considerations that the Minister must take into account when deciding whether to issue a certificate under section 9.2;

(c.1) providing for considerations to be taken into account by the Minister in the issuance of certificates under section 9.1;

(c.2) defining "origin" for the purposes of this Act or any provision thereof;

(c.3) respecting the application, for the purposes of this Act or any provision thereof, of any regulations made under the *Customs Tariff* respecting the origin of goods;

(d) respecting the certification, authorization or other control of any in-transit movement through any port or place of any goods that are exported from Canada or of any goods that come into any port or place in Canada;

(e) exempting any person or goods or any class of persons or goods from the operation of any or all of the provisions of this Act; and

(f) generally, for carrying out the purposes and provisions of this Act.

R.S., 1985, c. E-19, s. 12; 1988, c. 65, s. 123; 1993, c. 44, s. 154; 1994, c. 47, s. 112; 1999, c. 31, s. 90.

PROHIBITIONS

Export or attempt to export

13. 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.

R.S., c. E-17, s. 13.

Import or attempt to import

14. 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.

R.S., c. E-17, s. 14.

Diversion, etc.

15. (1) Subject to subsection (2), except with the authority in writing of the Minister, no person shall knowingly do anything in Canada that causes or assists or is intended to cause or assist any shipment, transshipment or diversion of any goods included in an Export Control List to be made, from Canada or any other place, to any country included in an Area Control List.

Diversion, etc., of automatic firearms

(2) No person shall knowingly do anything in Canada that causes or assists or is intended to cause or assist any shipment, transshipment or diversion of any thing referred to in any of paragraphs 4.1(a) to (c), or any component or part designed exclusively for assembly into such a thing, that is included in an Export Control List, from Canada or any other place, to any country that is not included in an Automatic Firearms Country Control List.

R.S., 1985, c. E-19, s. 15; 1991, c. 28, s. 4; 1995, c. 39, s. 173.

No transfer or unauthorized use of permits

16. No person who is authorized under a permit issued under this Act to export or import goods shall transfer the permit to, or allow it to be used by, a person who is not so authorized.

R.S., c. E-17, s. 16.

Transfers or unauthorized use of import allocations

16.1 No person who has been issued an import allocation shall, without the consent of the Minister, transfer it or allow it to be used by another person.

1994, c. 47, s. 113.

False or misleading information, and misrepresentation

17. No person shall wilfully furnish any false or misleading information or knowingly make any misrepresentation in any application for a permit, import allocation, certificate or other authorization under this Act or for the purpose of procuring its issue or grant or in connection with any subsequent use of the permit, import allocation, certificate or other authorization or the exportation, importation or disposition of goods to which it relates.

R.S., 1985, c. E-19, s. 17; 1994, c. 47, s. 114.

Aiding and abetting

18. No person shall knowingly induce, aid or abet any person to contravene any of the provisions of this Act or the regulations.

R.S., c. E-17, s. 18.

OFFENCE AND PUNISHMENT

Offence and penalty

19. (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.

Limitation period

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

Factors to be considered when imposing sentence

(3) Where an offender is convicted or discharged under section 730 of the *Criminal Code* in respect of an offence under this Act or the regulations, the court imposing a sentence on, or discharging, the offender shall, in addition to considering any other relevant factors, consider the nature and value of the exported or imported goods that are the subject-matter of the offence.

R.S., 1985, c. E-19, s. 19; 1991, c. 28, s. 5; 1995, c. 22, s. 18.

Officers, etc., of corporations

20. Where a corporation commits an offence under this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

R.S., c. E-17, s. 20.

Applicant for permit for non-resident

21. Where a permit under this Act is issued to a person who has applied for it for, on behalf of, or for the use of, another person who is not a resident of Canada and that other person commits an offence under this Act, the person who applied for the permit is, whether or not the non-resident has been prosecuted or convicted, guilty of the like offence and liable, on conviction, to the punishment provided for the offence, on proof that the act or omission constituting the offence took place with the knowledge or consent of the person who applied for the permit or that the person who applied therefor failed to exercise due diligence to prevent the commission of the offence.

R.S., c. E-17, s. 21.

Venue

22. (1) Any proceeding in respect of an offence under this Act may be instituted, tried or determined at the place in Canada where the offence was committed or at the place in Canada in which the person charged with the offence is, resides or has an office or place of business at the time of institution of the proceedings.

Proceedings respecting more than one offence

- (2) In any proceedings in respect of offences under this Act,
- (a) an information may include more than one offence committed by the same person;
 - (b) all the offences included in the information may be tried concurrently;
 - (c) one conviction for any or all offences so included may be made; and
 - (d) no information, warrant, summons, conviction or other proceedings for those offences shall be deemed objectionable on the ground that it relates to two or more offences.

R.S., c. E-17, s. 22.

Evidence

- 23.** (1) The original or a copy of a bill of lading, customs form, commercial invoice or other document, in this section called a "shipping document", is admissible in evidence in any prosecution under this Act in respect of goods where it appears from the shipping document that
- (a) the goods were sent or shipped from Canada or came into Canada;
 - (b) a person, as shipper, consignor or consignee, sent or shipped the goods from Canada or brought goods into Canada; or
 - (c) the goods were sent to a destination or person other than as authorized in any export or import permit relating to the goods.

Proof of the facts

- (2) In the absence of evidence to the contrary, a shipping document that is admissible in evidence under subsection (1) is proof of any of the facts set out in paragraph (1)(a), (b) or (c) that appear from the shipping document.

R.S., c. E-17, s. 23.

GENERAL

Customs officers' duties

- 24.** All officers, as defined in the *Customs Act*, before permitting the export or import of any goods, shall satisfy themselves that the exporter or importer, as the case may be, has not contravened any of the provisions of this Act or the regulations and that all requirements of this Act and the regulations with reference to those goods have been complied with.

R.S., 1985, c. E-19, s. 24; R.S., 1985, c. 1 (2nd Supp.), s. 213.

Application of powers under the *Customs Act*

- 25.** All officers, as defined in the *Customs Act*, have, with respect to any goods to which this Act applies, all the powers they have under the *Customs Act* with respect to the importation and exportation of goods, and all the provisions of that Act and the regulations thereunder respecting search, detention, seizure, forfeiture and condemnation apply, with such modifications as the circumstances require, to any goods that are tendered for export or import or exported or imported or otherwise dealt with contrary to this Act and the regulations and to all documents relating to those goods.

R.S., 1985, c. E-19, s. 25; R.S., 1985, c. 1 (2nd Supp.), s. 213.

Certain officers deemed customs officers

- 26.** For the purposes of section 108 of the *Customs Act*, all officers of the Department of Foreign Affairs and International Trade employed in the administration of this Act shall be deemed to be officers as defined in subsection 2(1) of the *Customs Act*.

R.S., 1985, c. E-19, s. 26; R.S., 1985, c. 1 (2nd Supp.), s. 213; 1995, c. 5, s. 26.

REPORT TO PARLIAMENT

Annual report

- 27.** As soon as practicable after December 31 of each year, the Minister shall prepare and lay before Parliament a report of the operations under this Act for that year.

R.S., c. E-17, s. 26.

RELATED PROVISION

-- 1991, c. 28, s. 13:

Transitional

"**13.** Where, before the coming into force of subsection 5(2) of this Act, a person has committed an offence under the *Export and Import Permits Act* but a sentence has not been imposed on the person for that offence, a sentence shall be imposed on that person in accordance with subsection 19(3) of that Act, as enacted by subsection 5(2) of this Act."