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Canada's Controlled Goods Program and U.S. Export Control Reform

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The Controlled Goods Program (CGP)

- Established in 2001 to support Canada's exemption under the U.S. *International Traffic in Arms Regulations* (ITAR)
- Legislated by the *Defence Production Act* (DPA) and *Controlled Goods Regulations* (CGR)
- Enhanced in 2011 to meet the requirements of Canada's own threat assessments and the new ITAR dual national rule



The CGP's Raison d'être

“To ensure that controlled goods are safeguarded while in the custody of private sector companies and protected against unauthorized access.”



Controlled Goods

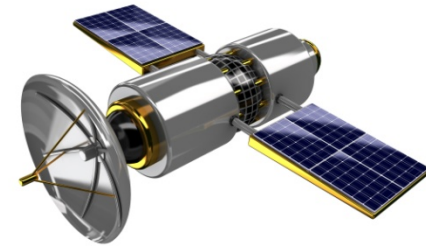
Group 2 – Munitions List

Automatic weapons, firearms, ammunition, bombs, fighter jets, tanks, missiles, chemicals, explosives, etc



Group 5 (Item 5504) – Strategic Goods

Global navigation satellite systems, ground control stations, and nuclear weapon design and testing equipment



Group 6 – Missile Technology Control Regime (MTCR)

Rocket systems, unmanned aerial vehicle systems, propulsion components and equipment



Who needs to register?

- Anyone **conducting** business in Canada who **possesses, examines or transfers** controlled goods in Canada **must** be registered
- Registrants **must** be security assessed
 - The security of controlled goods is a shared responsibility between government and industry
 - The organization is responsible for maintaining compliance with CGR and DPA provisions
- **A violation under the DPA** could result in a maximum penalty of \$2,000,000 per day and/or imprisonment for a term not exceeding 10 years

What We Do

- Register businesses accessing controlled goods
- ↓
- Perform Security Assessments on required select individuals and conduct enhanced background verifications as required
- ↓
- Train and certify company Designated Officials
- ↓
- Evaluate the security of companies and conduct inspections for compliance
- ↓
- Initiate investigations when security is breached
- ↓
- Suspend or revoke registrations or exemptions

Metrics

- **2013-2014**

- Processed 1,600+ registration applications
- Conducted 1,700+ compliance inspections
- Processed 2,200+ exemption requests
- Certified 1,400+ company Designated Officials

- **Today**

- 4,066 companies (4,955 sites) registered with the CGP.

- **Since Inception 2001**

- Processed 15,000+ applications
- Conducted 9,900+ compliance inspections
- Security Assessed 16,000+ foreign visitors and temporary workers
- Investigated 627 files, referring 38 cases to enforcement agencies



Responsibilities of Registered Companies

- Establish/implement a Security Plan
- Develop, implement and maintain record keeping
- Report security breaches
- Appoint a Designated Official to:
 - Conduct security assessments of employees, officers and directors
 - Determine the extent the individual concerned poses a risk of transferring controlled goods to unauthorized persons
 - Submit applications for exemptions to the CGP for temporary workers and visitors



Contribution to Canada's Counter-Proliferation Efforts

- The CGP is a part of Canada's counter-proliferation community
- Ensures a continuum in protecting controlled goods:
 - Regulates the possession, examination and transfer of controlled goods in Canada
 - Mitigates unauthorized domestic access or transfer of controlled goods and technology , including access by foreign visitors and temporary workers
 - Registration in the CGP is a pre-requisite for obtaining an export permit for controlled goods from the Department of Foreign Affairs, Trade and Development



Contribution to Canada's Counter Proliferation Efforts (cont'd)

- Contributes to identifying high risk proliferators through:
 - Privileged relationship with the Canadian controlled goods industry
 - Close contact with registered companies and Designated Officials (who identify and report security breaches)
 - Working in collaboration with Security & Intelligence partners and participating in the Counter-Proliferation Committee
- Close relationship with U.S. export regulators; CGP registration is a pre-requisite for using the Canadian exemption (ITAR 126.5)

Evolution of the CGP

- Implementation of Enhanced Security Strategy (2011)
- Transfer of US-Canada Joint Certification Program from Industrial Security to the CGP (2013)

Initiatives Currently Underway

- Amending the Controlled Goods List contained in the Schedule to the *Defence Production Act*
- Updating the *Controlled Goods Regulations*
- Introduction of User Fees for CGP registrants

The CGP implemented the Enhanced Security Strategy to:

- Respond to Canada's evolving security needs
- Meet the requirements of the U.S. 2011 ITAR dual national rule (section 126.18)
- Align with the U.S. Export Controls Reform initiative



Primary Enhancements include:

- More robust security assessment process
- A standardized tool to conduct security assessments for employees of registrants
- Standardized education and certification of Designated Officials (DOs)
- Greater partnership with the Security and Intelligence Community



Proposed Amendments to the Controlled Goods List:

- To reduce the size and scope of the list of controlled goods known as the Schedule to the Defence Production Act

Reduced List includes:

- ITAR-controlled articles as determined by the U.S. Department of State through an “ambulatory” reference to its United States Munitions List (USML); and
- Other items deemed strategically significant or with national security implications, regardless of their country of origin

Criteria for “Strategically Significant”

- Item is designed for military use
- Item is not regulated by another Canadian federal departments or agency
- Item is not predominantly used in civil applications
- Item is not in the public domain (i.e. not widely available to the general public)
- Item is sensitive or critical in nature or other departments / agencies expressed concerns of proliferation



Impact of Schedule Amendments

- Will allow the Schedule to remain in “lock-step” with changes to U.S. export control reforms
- Reduces non-USML controlled entries by over 50%
- Potentially reduces:
 - The number of companies required to register with the Controlled Goods Program (CGP), and/or
 - The number of employees that require access to controlled goods, and, hence, a security assessment
- Removes domestic control of many “dual-use” items for both military and civilian application



Impact of Schedule Amendments (cont'd)

- Responds to the recommendations of the *Review of Aerospace and Space Programs and Policies* (Emerson Report) and *Canada First: Leveraging Defence Procurement through Key Industrial Capabilities* (Jenkins Report)
- Reduces overlap with other regulatory bodies
- Supports the Government of Canada's Red Tape Reduction Action Plan

Close Partnership with Industry

- Active Industry Engagement Committee (IEC) established in April 2012
 - Members represent key industry associations (e.g., CADSI, AIAC), and companies from Canada's aerospace and defence sectors (e.g., Bombardier, CAE)
- The IEC worked closely with the CGP on every step of the Schedule amendments
 - Alignment with U.S. export control reforms critical to maintaining Canadian industry's competitive posture
- Public consultations: with all stakeholders and the general public, from November 19 to December 20, 2013
 - Major industry associations provided a coordinated response

Responding to U.S. Export Control Reform

- Monitoring the reforms and ensuring alignment between the CGP and U.S. domestic and export controls
- Seeking to raise the Program's profile with U.S. regulators so that they encourage U.S. aerospace/defence companies to leverage Canadian companies' registration in the CGP
- PWGSC officials regularly meet with counterparts in U.S. Departments of State, Defense, Commerce and the National Security Council to ensure open lines of communication
 - Next meeting in June 2014



Other CGP Initiatives Underway

- Updating the Controlled Goods Regulations
 - To align with the Enhanced Security Strategy and other changes to Program operations
- Introduction of User Fees
 - Required to sustain the Program beyond 2014-2015
 - Only businesses that directly access CGP services will pay user fees
 - Service standards will be implemented as required by Canada's *User Fees Act*
 - Completed Round 1 of the first phase of Public Consultations
 - Phase I Consultation Summary available on the CGP website



Next Steps

- Schedule Amendments

- This is the CGP's priority initiative and every effort is being made to speed up implementation
- In the longer term, in response to feedback from the IEC and public consultations, interdepartmental discussions have been launched on the best means of controlling non-U.S. items of strategic significance

Next Steps (cont'd)

- Introduction of User Fees
 - Round 2 consultations with industry to take place shortly
 - New model developed as a result of feedback from consultations
 - Implementation in FY 2015-16
- Updating the Controlled Goods Regulations
 - Public will be consulted on regulatory changes

In Conclusion

- The CGP plays a key role in Canadian industry's privileged access to the important U.S. aerospace and defence markets
 - We are monitoring and staying in step with U.S. export control reform
- Program changes will:
 - Improve CGP 's standards and services
 - Focus control on items of strategic significance
- The CGP is committed to supporting Canadian aerospace and defence sectors, improving the Program, and upholding national security



QUESTIONS?

Canada's Controlled Goods Program

Website: www.dmc-cgd@tpsgc-pwgsc.gc.ca

Consultations Page: <http://ssi-iss.tpsgc-pwgsc.gc.ca/dmc-cgd/consultations/index-eng.html>

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