

CANADA

Definition and Prosecution of Terrorist Acts

Canadian law defines terrorist activity as “any act or omission that is committed with the intention of intimidating the public or compelling a person, government or international organization to do or refrain from doing anything, whether the person, government or organization is inside or outside Canada.” Canada classifies biological weapons as an “explosive or other lethal device.” One who places, discharges or detonates an explosive device is liable to imprisonment for life.

Anyone “financing, planning, facilitating or committing terrorist activities on Canadian territory with a view to acting against another state or its citizens” is guilty of committing a terrorist offence. Penalties for the commission of a terrorist act range from 10 years to life imprisonment. Legislation also provides that, in certain circumstances, penalties are to be served consecutively and that a person convicted of terrorist offense must serve half of the sentence before being eligible for parole. Participation in the activity of a terrorist group or the facilitation of a terrorist activity is also a criminal offense. Recruiting individuals to train for or carry out terrorist activities is punishable by up to 10 years imprisonment.

The Public Safety Act, which authorizes regulation of aviation security, also authorizes regulation of any substance that would constitute a danger to the environment on which human life. Accordingly, anyone who, with intent to cause fear of death or bodily harm in any person, conveys or causes or procures to be conveyed information, knowing the information to be false or being reckless as to its truth, that an explosive or other lethal device has been or will be delivered, placed, discharged or detonated to, into, in or against a place of private or public use, a government or public facility, a public transportation system or an infrastructure facility is guilty of: (a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or (b) an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.

Prevention Measures

A number of procedures are in place to ensure there is smooth inter-agency cooperation between Canadian agencies. An automated system known as the Enforcement Information Index receives data from the Canadian Security Intelligence Service and notifies immigration and customs officials to possible threats to national security. The Canadian government is working on the Integrated Justice Information Initiative to address obstacles to efficient dissemination of information across the criminal justice system, as well as among agencies such as customs, immigration, police, prosecution, corrections, etc. The initiative will develop a national data-sharing system to support secure electronic transmission of critical operational information.

Canada is also implementing Integrated National Security Enforcement Teams in large urban areas. These teams will combine personnel from both federal law enforcement and intelligence communities with provincial and municipal police services. These teams will work to investigate criminal activities that pose a threat to the security of Canada.

Weapons Control and Proliferation Prevention

Canada strictly regulates the import, export and internal possession of firearms, military weapons, and explosives that could be used by potential terrorists. As part of the Australia Group, Canada has developed and implemented export controls on biological material and critical equipment. The Export and Import Permits Act controls the export of certain listed goods which could be used in the development, production, handling, operation, maintenance, storage,

detection, identification or dissemination of biological weapons. Legislation is also before Parliament to provide the government additional power to tighten internal controls on and regulate the export of civilian explosives as well as control the export and transfer of technology from Canada.

With respect to chemical, biological, radiological, and nuclear threats, the government of Canada, in cooperation with provincial jurisdictions, has created an interdepartmental process to both strengthen and coordinate its response to a chemical, biological, nuclear, or radiological attack as well as focusing on preventing such attacks. Specifically, the Biological and Toxin Weapons Convention Implementation Act will supplement Canada's existing legislation to prevent the development and spread of biological weapons.

Canada is working with the United States and Mexico to develop common approaches to improve the capacity of border authorities to identify and interdict the illicit movement of chemical, nuclear, or biological materials. On an international level, Canada is working to strengthen the treaties and conventions whose aim is combating chemical, nuclear, or biological attacks as well as strengthening the organizations that implement such instruments.

Laws Pertaining To Biology

The Department of Health Act authorizes all the Minister of Health to regulate with respect to the promotion or preservation of the health of Canadians, including protection against risks to health and the spread of diseases, and investigation and research into public health, including the monitoring of diseases. Canada's Office of Laboratory Security is the primary government authority responsible for biological safety. It has produced several publications on biosafety matters, including Laboratory Biosafety Guidelines and quarterly summary of biosafety related publications. Additionally, the Office conducts biosafety training seminars and issues biosafety advisories. The office has three separate divisions, each with distinct functions:

The Biosafety Division has the authority to:

- develop and apply national biosafety policies and guidelines
- assess permit applications for importation of human pathogens
- issue permits for importation of human pathogens
- certify level 3 and 4 containment facilities
- offer consultative services to microbiological laboratories
- act as a resource centre by providing training services and information
- act as a WHO collaborating centre

The Emergency and Bioterrorism Response Division has the authority to:

- develop policies, procedures and guidelines for biosafety emergencies, threat reduction initiatives and biological proliferation prevention programs
- control and track the use of dangerous pathogens in Canada
- monitor the accidental release of biological materials from certified and non-certified facilities and the instances of laboratory-acquired infections
- effect the Emergency Response Assistance Plan for national transportation emergencies involving Risk Group 4 human pathogens
- effect a national plan for 24/7 on-scene responses to suspicious packages and other bioterrorism events

The Laboratory Safety Division has the authority to:

- be responsible for developing and managing safety programs for all of Health Canada's laboratories
- manage Health Canada's consolidated license for the handling of radioactive materials in accordance with the requirements of the Canadian Nuclear Safety Commission
- develop and manage Health Canada's transportation of dangerous goods program for compliance to the Transportation of Dangerous Goods Act and Regulations

- plan, develop and administer safety programs for Health Canada's laboratories, including WHMIS, safe handling of hazardous substances, fire safety and occupational health and safety

Two Canadian laws deal specifically with the threat of disease outbreaks. The Emergency Preparedness Act defines federal responsibilities in the area of emergency preparedness. Section 7 requires that civil emergency contingencies be identified and civil emergency plans be developed. The Quarantine Act authorizes the Minister of Health to establish quarantine stations and quarantine areas anywhere and to designate quarantine officers. These officers may inspect conveyances arriving in or departing from Canada, take protective measures against infested conveyances and their cargo and quarantine persons found infected with diseases that would constitute a grave danger to public health in Canada.

Several laws seek to prevent the wrongful release of or exposure to dangerous substances. Canada enacted the Plant Protection Act to prevent import, export and spread of pests injurious to plants and to provide for their control and eradication. The Fertilizers Act prohibits the sale of any fertilizer that contains destructive ingredients or properties harmful to plant growth (when used according to the directions). The Health of Animals Act requires persons in possession or control of an animal to notify officials immediately upon detection of a reportable disease or toxic substance and to establish a quarantine zone around the affected animal(s); sale, disposal, transport of infected animals without approval is prohibited. Veterinary certificates of good animal health and required for export or import of animals. The Feeds Act regulates the manufacture, sale or import into Canada of any feed that may adversely affect animal or human health. The Pest Control Products Act requires that any pesticide imported, sold or used in Canada must first be registered by the Pest Management Regulatory Agency of Health Canada. The Hazardous Products Act controls the sale, advertising and importation of hazardous workplace products used by consumers in the workplace that are not covered by other acts which pose a hazard to public health and safety because of their design, construction or contents. The Transportation of Dangerous Goods Act outlines safety standards and procedures for the transport of dangerous goods and specifies reporting requirements and emergency response provisions for accidental release of dangerous goods.

Money Laundering – Prevention and Prosecution

In the wake of September 11, the government of Canada implemented the United Nations Suppression of Terrorism Regulations. These regulations make it an offence for any Canadian to collect or provide funds for anyone with known ties to terrorism or to be used in the commission of terrorist acts and provides a maximum penalty of 10 years imprisonment and unlimited fines for anyone committing such acts. The regulations also allow the government to freeze the assets and property of individuals with known ties to terrorism – individuals identified by the UN Security Council or by the Canadian government.

Canada passed the Proceeds of Crime (Money Laundering) Act which requires all banking and financial institutions to notify the government of suspicious transactions. It also expands the mandate of Canada's financial intelligence unit to include investigations of such claims. Moreover, this act establishes the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) that has the primary obligation of analyzing reports of suspicious financial transactions and providing information to Canadian law enforcement, intelligence, and other government authorities. Canada is also a member of the Financial Action Task Force and actively reviews or updates FATF's 40 recommendations on money laundering. The FATF conducts mutual reviews of member states' anti-money laundering efforts, which has recently been expanded to include the financing of terrorist activities.

Information Sharing

Legislation creating the Royal Canadian Mounted Police and the Canadian Security Intelligence Service contains provisions that facilitate timely exchange of information with other countries to prevent the commission of terrorist acts. The Royal Canadian Mounted Police intend to create an international component within the Integrated National Security Enforcement Team. International participation with this team can be on a case-by-case basis or on a permanent basis as deemed necessary. The Canada Customs and Revenue Agency has conducted training for detecting and handling threats involving weapons of mass destruction, including biological weapons. The Canadian Security Intelligence Service has the primary responsibility to collect information and provide advanced warnings of potential terrorist threats to the government. This information is then disseminated to the relevant agencies, either domestically or abroad. To facilitate the timely exchange of information and work cooperatively with the appropriate intelligence services, the Canadian Security Intelligence Service maintains liaison officers in a number of countries.

Canada willingly assists countries with which it has a bilateral treaty. In absence of a treaty, Canada may elect to provide legal assistance to a requesting country on a case-by case basis. The Mutual Legal Assistance in Criminal matters Act also contains provisions specific to assistance to international criminal tribunals. This act considers two situations:

1. Letters rogatory, or court issued non-treaty letters of request, requires that there is a criminal matter pending before a foreign judge, court, or tribunal that wishes to obtain evidence from the government of Canada. No treaty is required for this procedure; however, providing requested evidence is at the courts discretion.
2. If Canada does not have a treaty with a requesting country, assistance is limited to voluntary aspects, *e.g.*, taking voluntary statements by witnesses or voluntarily serving documents.

BIBLIOGRAPHY OF CANADIAN LAWS

Definition and Prosecution of Terrorist Acts

1. Anti-Terrorism Act
2. Public Safety Act c. 42, 2001
3. Public Safety Act c. 55, 2002

Weapons Control

1. The Biological and Toxin Weapons Convention Implementation Act
2. International Convention for the Suppression of the Terrorist Bombings
3. Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency
4. The Export and Imports Permit Act c. E-19, 1985
5. Human Pathogens Importation Regulations (SOR/94-558):

Laws Pertaining To Biology

1. Department of Health Act c. 8, 1996
2. Quarantine Act, c. Q-1, 1985
3. Emergency Preparedness Act c. 6, 1997
4. Canadian Food Inspection Agency Act c. 6, 1997
5. Plant Protection Act c.22,1990
6. Pest Control Products Act c. P-9, 1985
7. Health of Animals Act c.21, 1990
8. Feeds Act c. F-9, 1985
9. Fertilizers Act c. F-10, 1985
10. The Transportation of Dangerous Goods Act c.34, 1992
11. Hazardous Products Act c. H-3, 1985

Money Laundering – Prevention and Prosecution

1. Anti-Terrorism Act
2. United Nations Suppression of Terrorism Regulations
3. Proceeds of Crime (Money Laundering) Act
4. Canadian Criminal Code, Sections 83.02, 83.03, 83.04, 83.08, 83.1, 83.11,
5. International Convention for the Suppression of the Financing of Terrorism

Information Sharing

1. Mutual Legal Assistance in Criminal Matters Act

Secondary Materials

- Office of Laboratory Security: <http://www.hc-sc.gc.ca/pphb-dgsp/ols-bsl/index.html>
- The Laboratory Biosafety Guidelines (2001): <http://www.hc-sc.gc.ca/pphb-dgsp/ols-bsl/lbg-ldmbl/index.html>
- Import Reference Document Animal Health and Production Division: <http://www.inspection.gc.ca/english/anima/heasan/policy/ie-2002-3-1e.shtml>
- Canadian Laws (searchable database): <http://laws.justice.gc.ca/en/index.html>
- Customs and Revenue Agency: <http://www.ccra-adrc.gc.ca/menu-e.html>