

**CSIS FOREIGN ARRANGEMENTS  
POLICIES & PROCEDURES**

**1. CSIS ACT SECTION 17(1)(B) FOREIGN ARRANGEMENTS - POLICIES**

Section 17 (1)(b) of the *CSIS Act* provides authorization for CSIS to enter into arrangements or otherwise cooperate with governments of foreign states for the purpose of fulfilling the Service's mandate. The Service's foreign arrangements are managed as per Annex D of the Ministerial Direction pertaining to *CSIS Foreign Arrangements and Cooperation*.

The managing of all CSIS foreign arrangements is based on the following:

- Section 17(1)(b) of the *CSIS Act*
- ANNEX D of the Ministerial Direction pertaining to *CSIS Foreign Arrangements and Cooperation* (see **ATTACHMENT 1**)
- CSIS OPS 402 policy

- which is part of the CSIS FLV Branch - coordinates the policies and procedures regarding s.17 requirements and provides the necessary information to the CSIS Director / Executive, DG FLV, FLAs, EAs, and Operational / Corporate Branches on issues pertaining to the managing of s.17 foreign arrangements.

**2. S.17 FOREIGN ARRANGEMENTS - PROCEDURES**

**a) Assessing potential new s.17 foreign arrangements**

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**b) Implementation of new s.17 foreign arrangements**

CSIS must follow a stringent process of consultations and approvals prior to implementing foreign arrangements, as per the Section 17(1)(b) of the *CSIS Act* and Annex D of the Ministerial Direction on CSIS Operations. This involves the following steps

- DG.FLV initially consults (in writing) with the Director of Foreign Affairs Canada's at the working level, advising of the Service's interest in pursuing the arrangement(s) in question;
- FAC's will consult prior to

responding to FLV letter;

- Once a written response from the Director of FAC's is received, FLV then prepares the written submission to the Minister (under CSIS Director's signature) seeking approval for implementation of the new arrangement;
- Upon receipt of the Service's request, the Minister consults (in writing) with the FAC Minister (who in turn sends the request back to FAC for consultation prior to responding to our Minister);
- Once our Minister receives the FAC Minister's written reply, a written response is prepared by the Ministry (under the Minister's signature) and sent to the CSIS Director, advising of the Minister's decision. In some instances, the Minister may impose caveats regarding the management of the arrangement;

- In the Service's initial consultation with FAC and in its subsequent submission to the Minister,  
It also provides an outline on the reasons why such an arrangement would be beneficial in allowing the Service to carry out its national security mandate in various areas of operational interest (ie. security screening and/or counter terrorism and / or counter intelligence and/or counter proliferation);

- When seeking to implement a new foreign arrangement, the Service also assess the human rights issues pertaining specifically to the foreign entity in question. If there are allegations of human rights abuses, the Service always ensures to use a cautious approach when liaising with the foreign agency and closely scrutinizes the content of the information provided to, or obtained from, the foreign agency to ensure none of the security intelligence information exchanged

with the latter is used in the commission of acts which would be regarded as human rights violations.

**c) Enhancing existing s.17 foreign arrangements**

Annex D of the 2001 Ministerial Directive pertaining to *CSIS Foreign Arrangements & Cooperation* stipulates that "*The Director will manage these arrangements subject to any conditions imposed by the Minister*". Therefore, under the guidelines of the current MD, the CSIS Director can directly approve requests to enhance the level of cooperation for existing CSIS s.17 foreign arrangements (ie. without the need to consult with FAC ISI or the Minister), as long as there were no Ministerial caveats or restrictions regarding such enhancements when the arrangement was initially approved by the Minister. In cases where there are Ministerial caveats or restrictions, the Service will seek to enhance the arrangement by following such caveats (which in most cases request that the Service first consult with FAC ISI and / or seek Ministerial approval prior to considering the enhancement(s)).

Under the terms of the pre-2001 MD, CSIS had to consult (in writing) with FAC and / or seek the Minister's approval (depending on the nature of the enhancement sought) prior to enhancing any existing s.17 arrangement, regardless of whether there were Ministerial caveats or not.

**d) Existing s.17 arrangements - Renewals**

In some instances, there are Ministerial caveats / restrictions on the Service's management of existing s.17 foreign arrangements. Currently, as per such Ministerial caveats, the Service must provide updates or submissions for renewal to the Minister on an annual basis.

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**e) Review of s.17 foreign arrangements**

The Security Intelligence Review Committee (SIRC) reviews every new and enhanced CSIS s.17 foreign arrangement. These reviews are conducted via SIRC, FLV, and ER&L consultations. SIRC's list of arrangements to be reviewed is based on the yearly

submission FLV provides to SIRC (via ER&L) which outlines all of the new and enhanced s.17 arrangements which occurred during the fiscal year under review.

Furthermore, approximately three years ago, the Office of the Inspector General (OIG) began reviewing some aspects of the Service's foreign liaison program, and OIG questions are usually submitted to FLV by ER&L with SIRC's questions. In addition to SIRC and the OIG's annual reviews, the OIG began reviewing a sampling of the Service's foreign arrangements (27 arrangements in total) in 2004.06.

FLV provided the OIG with more than 2500 electronic documents and approximately 70 hard-copy files associated with this review, and has responded to additional questions by OIG researchers following their review of the documentation in question. The OIG's review is expected to conclude shortly.

The Privy Council Office is also provide with summaries of individual Service foreign arrangements on a case-by-case basis upon request.

### 3. S.17 FOREIGN ARRANGEMENTS - DEFINITIONS

#### a) **Scopes of exchanges**

The Service's s.17 foreign arrangements are managed within three levels (or 'Scopes') of exchanges.

Each of the Service's foreign arrangements include one or more of these categories of exchange which define what the Service may exchange with the foreign agency in question. In addition, all arrangements are managed via definitions pertaining to the 'Status', 'Type', and of each arrangement.

#### **SCOPE 1**

A SCOPE 1 Section 17 liaison arrangement allows for the following types of exchanges:

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**SCOPE 2**

A SCOPE 2 Section 17 liaison arrangement allows for the following types of exchanges:

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**SCOPE 3**

A SCOPE 3 Section 17 liaison arrangement allows for the following types of

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exchanges:

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**b) Status**

'ACTIVE'

Liaison / exchanges with agency / institution is currently being maintained.

'DORMANT'

There has been no liaison contact or exchanges between the CSIS SLO and the foreign agency for a period of one (1) or more year(s). Thirty-nine (39) s.17 arrangements are currently categorized as 'Dormant'

'RESTRICTED'

CSIS has established self-imposed restrictions on exchanges with the agency due to one or more reasons

Any CSIS foreign arrangement classified as 'dormant' or 'restricted' remains categorized as such until such a time as an updated assessment of the issue warrants re-activating the relationship and resuming exchanges (assuming a positive assessment).



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**c) Type**

**'FORMAL'**

*A formal arrangement entails the following condition:*

**'INFORMAL'**

*An informal arrangement entails one or more of the following conditions:*

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4. **S.17 FOREIGN ARRANGEMENTS - PHILOSOPHY**

CSIS generally enjoys strong relations with all of its key foreign partners. Our international image as a viable and non-threatening partner generates a large number of requests for assistance from traditional and non-traditional partner services. These arrangements are managed via definitions outlining the varied levels of exchange(s) the Service has with each of the foreign agencies with which it has established Ministerially-approved CSIS Act Section 17(1)(b) foreign arrangements.

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The Service ensures its posture remains consistent with the Canadian government's foreign policy objectives.

**5. S.17 FOREIGN ARRANGEMENTS - STATISTICS**

1984 (at transition from RCMP): CSIS inherited **162** arrangements in 107 countries

1992 / 1993: **194** arrangements in 121 countries

1997 / 1998: **214** arrangements in 128 countries

2002 / 2003: **237** arrangements in 134 countries

2004 / 2005: Currently **253** arrangements in 142 countries (October 18, 2004)

Furthermore, the Service is currently awaiting Ministerial approval or consulting with FAC ISI on four (4) new s.17 arrangements, and is assessing the merits of pursuing an additional seven (7) new arrangements during this current fiscal year (2004 / 2005). (See ATTACHMENT 3).

**6. S.17 FOREIGN ARRANGEMENTS - PUBLIC DISCLOSURE**

The Service does publicly identify the total number of CSIS Act Section 17(1)(b) foreign arrangements it has as well as the number of countries where those agencies are based.

However, the Service does not publicly identify which agencies it has established such foreign arrangements nor the countries in which they are based. The primary reason is due to mutual agreements (usually verbal or, in a few cases, written) between CSIS and the individual foreign agencies pertaining to confidentiality and the protection of third-party information ('third-party rule').

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Security also plays a role for not publicly disclosing the Service's foreign agency relationships. All of the Service's Security Liaison Offices (SLOs) abroad, with the exception of the CSIS SLO Washington, London and Paris Posts, are not publicly identified. Disclosure of the exact foreign agency names / countries with which the Service has CSIS Act Section 17(1)(b) foreign arrangements would facilitate the public identification of the location of all CSIS SLO Posts abroad, a scenario which would greatly increase the security / threat risk at both the Canadian Missions abroad as well as to individual Service employees.

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The Service believes that those who need access to the list of foreign agencies with which CSIS has established foreign arrangements already have same. There is nothing to be gained by publicly disclosing the specific names / countries which make up those foreign arrangements. However, there can be much to lose.

## **ATTACHMENT 1**

March 2001

### **MINISTERIAL DIRECTION**

#### **CSIS OPERATIONS**

##### **ANNEX D**

### **ARRANGEMENTS AND COOPERATION**

For the purpose of performing its duties and functions the Service may, with Ministerial approval, enter into an arrangement or otherwise cooperate with certain domestic and foreign organizations.

#### **Foreign Arrangements and Cooperation**

On matters relating to security assessments and threats to the security of Canada as defined in the CSIS Act, CSIS is the lead agency for liaison and cooperation with foreign security or intelligence organizations and international organizations of states. Subject to the Minister's approval, CSIS may have with each such organization an arrangement for cooperation. The Director will manage these arrangements subject to any conditions imposed by the Minister.

The following points provide more detailed guidelines in this regard:

- Arrangements may be established and maintained as long as they remain compatible with Canada's foreign policy towards the country or international organization in question as determined in ongoing consultations with the Department of Foreign Affairs and International Trade (DFAIT).
- Arrangements may be established and maintained when such contacts are in the interests of the security of Canada.
- Arrangements will respect the applicable laws relating to the disclosure of personal information.

In emergency circumstances, cooperation may be required for a specific security intelligence purpose where no arrangement exists with a foreign security or intelligence organization or organization of states. In the event the Minister is unavailable to approve an arrangement, the Director is authorized to undertake whatever exchanges or cooperation are necessary to address such an urgent requirement. The Director will advise the Deputy Solicitor General of his decision and seek the Minister's approval, as soon as possible, to confirm the temporary arrangement.

Unsolicited information offered by foreign organizations to CSIS will be dealt with in accordance with the CSIS Act.

An arrangement, **will clearly establish its** purpose and obligations, including the application of privacy and access to information legislation.

Records relating to foreign arrangements will be maintained, **The Service will indicate** its means of periodic evaluation or audit of the arrangement, and the provisions for its cancellation. The Director's Annual Report will include the status of the Service's foreign arrangements.

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The Director will inform the Minister immediately of circumstances which impact on foreign arrangements where there is a reasonable potential

- to affect adversely the security of Canada; or
- to affect adversely Canadian relations with any country or international organization of states; or
- to give rise to public controversy; or
- to contravene any of the guidelines set out herein with respect to the management of CSIS foreign arrangements.

Proposals for ministerial approval of a foreign arrangement will conform to the standards and guidelines set out in Appendix 1.

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**APPENDIX 1 - STANDARDS AND GUIDELINES FOR ESTABLISHING A FOREIGN ARRANGEMENT**

**1. CANADIAN SECURITY REQUIREMENTS:**

Describe the rationale for the proposed arrangement, highlighting current security intelligence requirements, and the extent to which the proposed arrangement is anticipated to assist the Service in meeting those requirements. Provide supporting data where possible.

**2. INTERNAL POLITICAL SITUATION AND RESPECT FOR HUMAN RIGHTS:**

Assess the internal political situation of the country and highlight the presence of democratic institutions noting their role, history and place in society. The assessment will address the human rights record of the country including any possible abuses by the security or intelligence organizations.

**5. IMPACT:**

Comment on the extent to which the proposed arrangement might affect existing arrangements and necessitate the establishment of similar arrangements with other countries.

**6. FOREIGN POLICY CONCERNS:**

Comment on any foreign policy concerns determined in consultation with DFAIT.