

CONFIDENTIAL

**MEMORANDUM OF UNDERSTANDING
(MOU)**

Between

**THE CANADIAN SECURITY INTELLIGENCE SERVICE
(CSIS)**

And

**PUBLIC WORKS AND GOVERNMENT SERVICES CANADA
as represented by the Director of Controlled Goods Directorate
(PWGSC)**

collectively referred to as the 'parties'

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PREAMBLE

IN FURTHERANCE of effective risk management pertaining to the transfer of controlled goods from Canada and in furtherance of the Controlled Goods Program's Enhanced Security Strategy (ESS) which will accommodate the United States Government's May 16, 2011 amendment to the International Traffic in Arms Regulations: Dual Nationals and Third Country Nationals Employed by End-Users.

WHEREAS pursuant to the *Canadian Security Intelligence Service Act (CSIS Act)*, R.S.C. 1985 c. C-23 as amended, CSIS may, for the purpose of performing its duties and functions under the *CSIS Act*, and with the approval of the Minister of Public Safety, enter into an arrangement with any department of the Government of Canada pursuant to Section 17(1)(a)(i) of the *CSIS Act*;

WHEREAS pursuant to Section 12 of the *CSIS Act*, CSIS shall collect, by investigation or otherwise, to the extent that is strictly necessary, and analyse and retain information and intelligence respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada and, in relation thereto, shall report to and advise the Government of Canada;

WHEREAS, CSIS may, in accordance with Section 19(2) of the *CSIS Act*, disclose information obtained in the performance of its duties and functions under the *CSIS Act* for the purposes of the performance of its duties and functions under the *CSIS Act*;

WHEREAS pursuant to Part 2 of the *Defence Production Act (DPA)* R.S.C. 1985, c.D-1, the regulation of controlled goods is the responsibility of the Minister of Public Works and Government Services Canada. In accordance with the Controlled Goods Regulations, SOR/2001-32, and on the basis of a PWGSC security assessment prescribed by those regulations, the PWGSC has the authority to register any person or, to deny, suspend, amend or revoke a registration. PWGSC may also exempt a person from registration or deny, suspend, amend or revoke an exemption. Furthermore, pursuant to Sections 38 and 39.1 of the *DPA*, for the purpose of registration or exemption, the PWGSC may request any information, which it deems necessary for a mandatory security assessment. PWGSC confirms that its authority to disclose to CSIS, for the stated purposes, personal information covered in this Arrangement is based upon PWGSC obtaining the consent of the person concerned.

The parties have reached the following understanding:

SECTION 1: PURPOSE

1.1 The purpose of this Arrangement is to:

- (a) Establish a formal mechanism for the provision by CSIS to PWGSC of information collected under Section 12 of the *CSIS Act* to help the latter determine if a person applying for registration in the Controlled Goods Program poses a risk of transfer as defined by the *DPA*.
- (b) Establish the rights and responsibilities of CSIS and PWGSC with respect to the provision, storage, and handling of information regarding threats to the security of Canada.

1.2 Pursuant to this arrangement CSIS is not providing PWGSC with a security assessment of a person as defined by Section 2 of the *CSIS Act* nor is PWGSC providing the person with a Government of Canada security clearance.

1.3 Personal information in this Arrangement shall not be used, disclosed or retained for purposes other than those identified in this Arrangement except with the consent of the person or as permitted by law.

SECTION 2: DEFINITIONS

2.1 In this arrangement, the terms listed below will have the following meanings:

"Arrangement" refers to arrangements subject to the approval of the Minister of Public Safety under section 17(1) of the *CSIS Act* and, for greater clarity, includes the arrangement described in this MOU, the appendices attached to it, and any instruments amending it.

"Controlled Goods" means goods referred to in the Schedule of the *DPA*.

"Enhanced Security Strategy" means a set security risk management approach with standardized procedures administered by the CGP-PWGSC, to address security gaps identified by external and internal standards which accommodate standards outlined in Section 126.18 of the *ITAR*.

"**Persons**" means individuals, partnerships or business enterprises who have or may have access to controlled goods.

"**ITAR**" means the International Traffic in Arms Regulations, which are a set of United States government regulations covering the export and import of defence-related articles and services on the United States Munitions List.

"**Threats to the Security of Canada**" as defined in section 2 of the *CSIS Act*.

"**Transfer**" means to dispose of a controlled good or disclose its content in any manner as defined in Section 37(3) of the *DPA*.

SECTION 3: SCOPE OF COOPERATION

Responsibilities of PWGSC

- 3.1 PWGSC will provide CSIS with approximately 5,000 requests annually. If PWGSC expects this figure to rise substantially, it will advise CSIS in writing.
- 3.2 PWGSC will in the normal course of this arrangement send any and all requests to CSIS through secure electronic means unless the Service agrees to receive a particular request by other means. For individuals each request will contain the following data elements, as applicable: Full name, date and place of birth and company affiliation. For partnerships and business enterprises the following data elements will accompany each request, as applicable: company legal name, address and phone number. CSIS may request more information on a specific person that PWGSC is in a legal position to provide.
- 3.3 Requests by PWGSC for information on a person will be sent to CSIS only after PWGSC has conducted a preliminary risk assessment as part of its Enhanced Security Strategy.

Responsibilities of CSIS

- 3.4 CSIS agrees to check the information, as applicable, (full name, date and place of birth, company affiliation, company legal name, address and phone number) provided by PWGSC against the information in its appropriate data bases and provide PWGSC with a summary of information pertaining to threats to the security of Canada as defined under the *CSIS Act* which may be considered by PWGSC in determining if a person applying for registration in the Controlled Goods Program poses a risk of transfer as defined by the *DPA*.

- 3.5 CSIS agrees that the maximum response time for requests involving no adverse information will be twenty (20) working days. Both CSIS and PWGSC agree that some cases may require longer response times, depending on the presence of adverse indices.
- 3.6 Depending on resources and the nature of the suspected threat to the security of Canada, CSIS may, at its sole discretion, conduct further inquiries on a person as permitted by Section 12 of the *CSIS Act*. Information from these further inquiries may be provided to PWGSC if PWGSC determines it is necessary for the conduct of a security assessment pursuant to Section 15(1) of the controlled Goods Regulations.

SECTION 4: ACCURACY OF INFORMATION

- 4.1 Each party will use reasonable efforts to ensure the completeness, accuracy, and timeliness of the information covered under this Arrangement. Each party will endeavour to correct any inaccuracies and ensure the rights of a person to access and correct personal information is upheld.
- 4.2 PWGSC agrees, with respect to personal information that is under the control of that party, to respond to requests from persons to receive their personal information and to request correction of their personal information in accordance with legislation. PWGSC agrees to notify CSIS of the request and CSIS agrees to update its records with the corrected information.

SECTION 5: INFORMATION MANAGEMENT

Storage, maintenance, disclosure, protection and handling of classified and designated information

- 5.1 PWGSC agrees that any of its employees who require access to classified and designated information provided by CSIS under this MOU as part of their duties must have a top secret clearance.
- 5.2 PWGSC agrees to maintain any and all classified information received from CSIS in accordance with the Policy on Government Security (PGS) of the Government of Canada.
- 5.3 PWGSC agrees that it will not disseminate CSIS classified and designated information outside PWGSC unless CSIS has given to PWGSC its express written consent to do so. Both parties will respect and retain caveats attached to information.

- 5.4 If either party is required by law to disseminate or disclose the other party's information, the disclosing party will, prior to any potential disclosure, immediately give the other party written notice of the legal requirement to disseminate or disclose information, and provide prompt and reasonable cooperation to the other party in any efforts taken by that party to protect its information from disclosure.
- 5.5 In the event of the loss or unauthorized disclosure or dissemination by the other party of classified and designated information, the disclosing party shall advise the other party immediately upon discovery of the unauthorized disclosure or dissemination of the classified and designated information, and assist in preparing a damage assessment on the impact of the loss, unauthorized disclosure or dissemination of the information.
- 5.6 Either party may cease further disclosure of classified and designated information under this arrangement if it determines that the other party has improperly shared information provided to it under this arrangement.

SECTION 6: REVIEW AND REDRESS

- 6.1 The parties will, separately or jointly, on a periodic basis, and at any time at the written request of either party, review the practices and procedures in this MOU to ensure compliance with the provisions of legislation referred to in this arrangement.
- 6.2 If any questions, challenges or disagreements arise between PWGSC and CSIS in respect of any matter related to this MOU, the party who raises the issue shall give written notice to the other party of its objections and the reasons thereof. Upon receipt of such notice, the designated officials of each party, shall meet forthwith to attend to the matter.


SECTION 7: EFFECTIVE DATE, AMENDMENT AND TERMINATION

- 7.1 This arrangement shall commence on and take effect from the date on which it is signed by the second of the parties to do so.
- 7.2 The parties agree that this arrangement may be amended at any time with the written approval of both PWGSC and CSIS to do so.
- 7.3 The parties agree that this arrangement will remain in effect until either party gives the other party thirty (30) days' written notice of its intent to terminate this arrangement.

SECTION 8: NOTICE

8.1 Any notice or other communication required or permitted to be given by either party to the other shall be sent to the following parties:

(a) For PWGSC:
Director, Controlled Goods Directorate

(b) For CSIS :

Security Screening Branch

SECTION 9: LEGAL EFFECT

9.1 This MOU is an administrative understanding between the parties and is not intended to be legally binding or enforceable before the Courts.

In Witness Whereof, the parties hereto have executed this MOU the day and year indicated below:

Signed at Ottawa / Signée à Ottawa

Signed at Ottawa / Signée à Ottawa



Jennifer Stewart
Director General
Industrial Security Sector, PWGSC



Security Screening Branch, CSIS

6 October 2011

Date

11/10/11

Date