

DEFENSE

Technology Transfer

Memorandum of Understanding
Between the
UNITED STATES OF AMERICA
and CANADA

Signed at Washington and Ottawa
May 31 and September 23, 1994

Naval Postgraduate School
Dudley Knox Library

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DEPOSITORY



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

CANADA

Defense: Technology Transfer

*Memorandum of understanding signed at Washington and
Ottawa May 31 and September 23, 1994;
Entered into force September 23, 1994.*

MEMORANDUM OF UNDERSTANDING BETWEEN THE
DEPARTMENT OF DEFENSE OF THE UNITED STATES OF
AMERICA AND DEPARTMENT OF NATIONAL DEFENCE OF
CANADA CONCERNING THE MEASURES TO BE TAKEN FOR
THE TRANSFER, SECURITY, AND SAFEGUARDING OF
TECHNICAL INFORMATION, AND EQUIPMENT TO THE
DEPARTMENT OF NATIONAL DEFENCE FOR USE IN THE
CANADIAN ARCTIC SUBSURFACE SURVEILLANCE SYSTEM

PREAMBLE

Whereas the Department of National Defence (DND) of Canada and Canadian industry plan to enter into a contractual arrangement for the acquisition of equipment for a Canadian Arctic Subsurface Surveillance System (ARCSSS) involving subcontracts to U.S. industry;

And whereas this Memorandum of Understanding establishes the responsibilities of the DND of Canada with respect to the measures to be taken for the transfer, security, and safeguarding of sensitive subsurface surveillance technology information, and equipment;

The Department of Defense (DOD) of the United States, and the DND of Canada, (hereinafter referred to as the "Parties") taking into account the foregoing:

Have reached the following understandings:

ARTICLE I

DEFINITION OF TERMS AND ABBREVIATIONS

ARCSSS	Canadian Arctic Subsurface Surveillance System
ARCSSS Underwater Segment (UWS) Components	Underwater components of ARCSSES from U.S. corporations including multiple sets of hydrophones and electronic multiplexer/repeater modules, a cable system (potentially fiber optic), a high voltage power supply, demultiplexer, system transmission test set and other hardware which in whole or in part, comprise the underwater portion of

ARCSSS UWS Information	Information pertaining to ARCSST UWS components supplied by U.S. industry regardless of form or type, including, but not limited to, that of a scientific or technical or business nature which may be, for example, experimental and test data, specifications, designs, configurations, processes, techniques and inventions (whether patentable or not), technical writings, sound recordings, pictorial reproductions, drawings and other graphic representations, and any other relevant technical data, in whatever form presented and whether or not the subject of copyright.
Contractor	Any industry entity awarded a Contract or subcontract by DND for the purpose of developing, procuring, manufacturing, installing, operating, maintaining, or enhancing ARCSST UWS.
MOU	Memorandum of Understanding
Third Party	Any person or other entity whose governing authority is not a Party to this MOU.

ARTICLE II

OBJECTIVE AND SCOPE

1. The objective of this MOU is to provide a security understanding to permit the acquisition of ARCSST UWS Components and Information.
2. The scope of this MOU covers:
 - (a) security procedures for the protection of classified ARCSST UWS Components and Information;
 - (b) provisions for identification of the locations of deployed ARCSST UWS Components; and
 - (c) provisions concerning the transfer of ARCSST UWS Components and Information to Third Parties.
3. DND will, through its contractual relationship with its Contractors, develop and implement procedures for the control and protection of classified ARCSST UWS Components and Information.
4. ARCSST UWS Components are being acquired for DND for the purpose of installation in those waters of the Canadian arctic archipelago which will give maximum acoustical results in detecting subsurface shipping traversing the said

ARTICLE III

TRANSFER AND USE OF ARCSSS UWS COMPONENTS AND INFORMATION

1. ARCSSS UWS Components and Information may be classified as high as SECRET. ARCSSS UWS Component production information will not be released under this MOU. U.S. ship signatures, tactics, capabilities, or restrictions will not be released under this MOU.
2. The Parties will take all necessary and appropriate measures, in accordance with this MOU and their international obligations and their national laws and regulations, to prevent unauthorized access, transfer, or retransfer of classified ARCSSS UWS Components or Information. Detailed provisions for the control of such Components or Information will be incorporated into all contracts and other arrangements implementing this MOU.
3. To the extent that U.S. industry personnel will be required to have access to ARCSSS UWS Components or Information, DND will ensure that such access will only be permitted upon DND receipt of a security assurance from the U.S. Department of Defense, and validation of need-to-know.

ARTICLE IV

SECURITY PROCEDURES

1. All classified ARCSSS UWS Components and Information will be protected in accordance with the U.S.-Canada General Security of Information Agreement of 30 January 1962,¹ and this MOU.

ARTICLE V

THIRD PARTY SALES AND TRANSFERS

1. DND will not permit the sale or transfer of classified ARCSSS UWS Components or Information, or of unclassified controlled information associated with ARCSSS UWS Components, to any Third Party without the prior written consent of the U.S.
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2. U.S. consent to sales and transfers to a Third Party will not be provided unless the Third Party agrees that it will not sell or retransfer the ARCSSS UWS Components or Information without prior written approval of the U.S.

ARTICLE VI POINTS OF CONTACT

1. DOD designates the Navy International Programs Office (Navy IPO) as the point of contact for future coordination.
2. DND designates the Assistant Canadian Forces Naval Attache, of the Canadian Defence Liaison Staff at the Canadian Embassy in Washington D.C. as its point of contact.

ARTICLE VII FINANCIAL MATTERS

1. This MOU will not impose any financial obligations on either Party, except to the extent that each Party shall be responsible for costs it incurs in its own interest arising from the implementation of this MOU.

ARTICLE VIII TERMINATION

1. This MOU will terminate upon the permanent discontinuance of operation of ARCSSS UWS.
2. Termination will be carried out under arrangements to be made at the time by the Parties.
3. In the event of termination of this MOU, the provisions of Articles III (Transfer and Use of ARCSSS UWS Components and Information), IV (Security Procedures), and V (Third Party Sales and Transfers) regarding the transfer, use, safeguarding, and sale of ARCSSS UWS Components and Information will remain in effect.

ARTICLE IX
DISPUTES AND AMENDMENTS

1. Any differences regarding the interpretation or application of this MOU will be resolved by consultation between the Parties concerned, and will not be referred to an international tribunal or other forum for settlement.
2. This MOU may be amended in writing by duly authorized representatives of the Parties.

ARTICLE X
EFFECTIVE DATE AND SIGNATURE

The foregoing represents the understanding between the Department of Defense of the United States and the Department of National Defence of Canada upon the matters referred to herein.

DONE, in duplicate, in the English language.

For the Department of Defense
of the United States:

J. W. Snyder
Rear Admiral, U.S. Navy
Deputy Director, Navy IPO
31 May 1994 Washington, D.C.

For the Department of National
Defence of Canada:

M. T. Saker
RAdm, Assistant Deputy Minister
(Engineering & Maintenance)
DND, CDA, 23 Sep 94,
Ottawa, Canada