

No. 12345

CANADA
and
FEDERAL REPUBLIC OF GERMANY

Exchange of notes constituting an agreement concerning the exchange of information relating to defence science (with memorandum of understanding). Bonn, 21 and 28 August 1964

Authentic texts of the notes: English and German.

Authentic text of the memorandum of understanding: English.

Registered by Canada on 28 March 1973.

CANADA
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Échange de notes constituant un accord concernant l'échange de renseignements sur la science de la défense (avec mémorandum d'accord). Bonn, 21 et 28 août 1964

Textes authentiques des notes: anglais et allemand.

Texte authentique du mémorandum d'accord: anglais.

Enregistré par le Canada le 28 mars 1973.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF CANADA AND THE
GOVERNMENT OF THE FEDERAL REPUBLIC OF GER-
MANY CONCERNING THE EXCHANGE OF INFORMA-
TION RELATING TO DEFENCE SCIENCE

I

*The Ambassador of Canada to the Federal Republic of Germany
to the Minister of Foreign Affairs of the Federal Republic of Germany*

CANADIAN EMBASSY

AMBASSADE DU CANADA

No. 1

Bonn, August 21, 1964

Excellency,

I have the honour to propose, on instructions from my Government, that an agreement for the exchange of information in defence science, as set forth in the attached Memorandum of Understanding, be concluded between our two Governments.

If this proposal is acceptable to your Government, I have the honour to suggest that this Note, including the attached Memorandum of Understanding, and your reply to that effect, shall constitute an Agreement between our two Governments which shall come into force one month after the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

JOHN STARNES

His Excellency Dr. Gerhard Schröder
Minister of Foreign Affairs,
Bonn

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT
OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF
GERMANY FOR THE EXCHANGE OF INFORMATION IN DEFENCE
SCIENCE

1. This Memorandum of Understanding sets forth the broad arrangement between the Government of Canada and the Government of the Federal Republic of Germany for the exchange of information for defence purposes in fields of defence research of these states.

2. The fields of defence science and the specific projects to which this arrangement is applicable shall be mutually agreed upon by the Minister of National Defence on behalf of Canada and the Federal Minister of Defence on behalf of the Federal Republic of Germany.

¹ Came into force on 28 September 1964, i.e., one month after the date of the note in reply, in accordance with the provisions of the said notes.

3. The undertakings pursuant to this arrangement shall be known as “Canadian-German Defence Science Information Exchange Programmes”. The activity of scientific interchange within a particular and designated field of science shall be known as a “Canadian-German Defence Science Information Exchange Project”.

4. In the fields agreed upon in conformity with article 2 of this arrangement, and to such extent as is permissible under the laws of the Contracting Parties, there shall be a full and frank exchange of information; either Party shall arrange, on request, for mutually agreed representatives of the other state, hereinafter referred to as visitors, to have access to establishments, or other places where the scientific activity on agreed projects is being carried out, for the purpose of obtaining a complete disclosure of information on those projects.

5. The Government of Canada and the Government of the Federal Republic of Germany recognize that restrictions may be placed on the transmission of certain technical information, where rights respecting such information are vested or enjoyed in or by a third party or third parties. Transmission of such information shall be subject to the approval of the third party or third parties concerned. If access to establishments or other places within the meaning of article 4 is contingent upon the approval of a third party or third parties, the Governments shall fully endeavour to obtain such approval.

For purposes of this article the expression “third party” means a person or authority or state not a party to this arrangement.

6. Any proprietary rights in inventions, in particular industrial property rights and copyrights, shall be protected. No use shall be made of information which might endanger or violate these rights, or the acquisition thereof, without prior agreement of those enjoying the aforementioned rights. Such prior agreement shall always be obtained before any such information is used for non-military purposes.

7. The Government of the State of origin may reserve the right to make the release of certain information to governmental authorities other than those specified in article 2, to non-governmental authorities, or persons of the receiving State, or to or into third States, subject to its explicit consent. Transmission of classified information and material to or into third States shall be permissible only on the basis of a separate arrangement.

8. For the exchange and handling of classified information and material the following shall apply:

(a) The transmission of classified information from either State to the other State shall be governed by the regulations applicable for NATO classified information and material. Documents and other material shall be forwarded through the official authorities specified in article 2 of this arrangement or such authorities of the dispatching and recipient states as they may designate.

A declaration shall be attached to the material stating that the material has been classified in the interest of defence, and indicating the classification.

(b) The Government of Canada and the Government of the Federal Republic of Germany mutually undertake to treat as classified all classified information exchanged pursuant to this arrangement, to give such information a security classification at least equivalent to that afforded by the state of origin, and to apply to such information the same security regulations as are applicable to their own classified material and

information of the respective classification, or at least apply to such information the security regulations in force for NATO classified information and material.

(c) The classification employed in the two states are :

In Canada
TOP SECRET
SECRET
CONFIDENTIAL
RESTRICTED

In the Federal Republic of Germany
STRENG GEHEIM
GEHEIM
VS—VERTRAULICH
VS—NUR FÜR DEN DIENSTGEBRAUCH

(d) Visitors shall have access to classified information and material only if they have been duly authorized thereto, and only after notification of their arrival has been sent in good time (normally a minimum of thirty days in advance) to the appropriate authority of the recipient state, together with a certificate of security clearance, by the authority of the dispatching state specified in article 2 of this arrangement. The certificate must indicate up to what security classification it has been granted. It may only be issued after an appropriate security screening. The notification shall indicate the purpose of the visit and, if appropriate, contain the exact designation of the project within the meaning of article 3 of this arrangement.

(e) The security classification to be applied pursuant to this arrangement may only be lowered or removed on the request of the Government of the state of origin. The said Government shall give the other Government at least six weeks notice of its intention to lower or remove a security classification. The aforementioned notice shall be directed to the authority of the other state specified in article 2 of this arrangement. The same authority shall be advised once the lowering or removal of a security classification has been effected.

(f) In the event of the termination of this arrangement, all classified information and material transmitted on the basis of this arrangement must continue to be treated in accordance with the aforementioned security regulations.

9. This arrangement does not refer to application for a patent in respect of classified inventions.

10. This Memorandum of Understanding shall remain in force until six months after a notice of termination has been given in writing by either Government.

II

[GERMAN TEXT — TEXTE ALLEMAND]

DER BUNDESMINISTER DES AUSWÄRTIGEN

Bonn, den 28. August 1964

Exzellenz,

Den Empfang Ihrer Note vom 21. August 1964 darf ich Ihnen mit Dank bestätigen. Diese Note hat in deutscher Übersetzung folgenden Wortlaut :

„Auf Weisung meiner Regierung habe ich die Ehre, den Abschluß eines Abkommens zwischen unseren beiden Regierungen über den Austausch von verteidigungswissenschaftlichen Informationen, wie es in der beigefügten Vereinbarung niedergelegt ist, vorzuschlagen.

„ Falls dieser Vorschlag für Ihre Regierung annehmbar ist, habe ich die Ehre anzuregen, daß diese Note einschließlich der beigefügten Vereinbarung und Ihre entsprechende Antwort ein Abkommen zwischen unseren beiden Regierungen darstellen, das nach einem Monat vom Datum Ihrer Antwort an gerechnet in Kraft treten wird.“

Namens der Regierung der Bundesrepublik Deutschland habe ich die Ehre, Ihnen mitzuteilen, daß die Bundesregierung Ihren Vorschlag für den Abschluß eines Abkommens über den Austausch von verteidigungswissenschaftlichen Informationen annimmt und damit einverstanden ist, daß das Abkommen nach einem Monat vom Datum dieser Note an gerechnet in Kraft treten wird.

Genehmigen Sie, Exzellenz, die Versicherung meiner ausgezeichnetsten Hochachtung.

GERHARD SCHRÖDER

Seiner Exzellenz dem kanadischen Botschafter
Herrn John Starnes
Bonn

[TRANSLATION¹ — TRADUCTION²]

*The Minister of Foreign Affairs of the Federal Republic of Germany
to the Ambassador of Canada to the Federal Republic of Germany*

THE FEDERAL MINISTER OF FOREIGN AFFAIRS

Bonn, August 28, 1964

Excellency,

May I thank you for your note dated August 21, 1964, the text of which in its German translation reads as follows :

[See note I]

In the name of the Government of the Federal Republic of Germany I have the honour to inform you that the Federal Government accepts your proposal for the conclusion of an agreement for the exchange of information in defence science and agrees that the agreement shall come into force one month after the date of this note.

Accept, Excellency, the assurance of my highest consideration.

GERHARD SCHRÖDER

H. E. John Starnes
Ambassador of Canada
Bonn

¹ Translation supplied by the Government of Canada.

² Traduction fournie par le Gouvernement canadien.